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Acts of the Legislative  
Council of the Territory of  
Florida

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ACTS  
OF THE  
LEGISLATIVE COUNCIL  
OF THE  
TERRITORY OF FLORIDA,

PASSED AT THE ELEVENTH SESSION, COMMENCING JANUARY THE SEVENTEEN,  
AND ENDING FEBRUARY THE SEVENTEENTH,

1833.

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PUBLISHED BY AUTHORITY.

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TALLAHASSEE.

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WILLIAM WILSON—*Territorial Printer.*

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1988

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RULES OF PRACTICE FOR THE  
**COURT OF APPRAISALS**  
OF THE TERRITORY OF FLORIDA.

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**RULE 1st.** It shall be required of an applicant for admission as an Attorney and Counselor in this Court, that he should have practiced as such, in a Superior Court of this Territory, and have sustained a fair private and professional character.

**RULE 2d.** The practice of the Supreme Court of the United States, so far as the same is consistent with the Organic Law, and with the acts of the Legislative Council, shall be the out-line of the practice of this Court, to be altered from time to time as circumstances may render the same necessary.

**RULE 3d.** Previous to the argument of any cause in this Court, it will be expected that the Counsel engaged in such cause furnish the Court with the material points, in writing.

**RULE 4th.** No Record of the Court shall be suffered by the Clerk, to be taken out of his Office but by consent of Court.

**RULE 5th.** In every cause in which the defendant shall fail to appear, the plaintiff may proceed "ex parte."

**RULE 6th.** If the defendant shall refuse to plead to issue, and the cause shall be called for trial, the Court may proceed to hear an argument on the part of the plaintiff, and give judgment according to the rights of the cause.

**RULE 7th.** When it shall be made to appear to this Court, that an appeal has been prayed and allowed in a Court below, and that the same has not been brought up and placed upon the docket as the law requires, the same shall be annulled on motion, and the judgment of the Court below, shall proceed to execution as if no such appeal had been allowed.

**RULE 8th.** Whenever, pending a suit in this Court, either party shall die, the proper representatives in the personality or realty of the party deceased, may voluntarily come in and be made party to the suit, and thereupon, such suit shall be determined as other suits: and if such representatives shall not voluntarily become party, then the other party may suggest the death on record: whereupon, on motion in writing, he may obtain an order that, unless such representatives shall become party within the first three days of the ensuing term, he shall, if defendant be admitted to have the suit dismissed, and if the plaintiff [a hearing being had] to have the judgment reversed if erroneous; provided that a copy of every such order shall be printed in some newspaper at the seat of Government, for three successive weeks, beginning at least sixty days before the first day of the Term of the Court of Appeals, then the next ensuing.

**RULE 9th.** No cause shall be heard, until a complete record shall be filed with the Clerk of this Court, containing in itself, without reference "aliunde," all the papers, exhibits, depositions and other proceedings, which are necessary to a hearing in this Court.

**RULE 10th.** In all cases in which a writ of error, or appeal, shall appear to have been sued out, merely for delay, damages shall be awarded under the statute, not exceeding twenty per cent.: but in cases where there exists a real controversy, the damages shall be only at the legal rate of interest.

**RULE 11th.** All parties in this Court not being residents of the Territory, shall give security for the costs accruing in this Court to be entered of record.

**RULE 12th.** If the Clerk of this Court shall produce satisfactory evidence by affidavit, or the acknowledgment of the parties, or their sureties, of his having served a copy of the bill of costs due by them respectively in this Court, on such parties or their sureties, an attachment may issue against such parties or their sureties, to compel payment of such costs.

**RULE 13th.** Only two Counsel shall be heard on either side of a cause, unless by special permission of the Court.

**RULE 14th.** Whenever it shall be necessary, or proper in the opinion of any Judge of a Superior Court, that original papers of any kind, should be inspected by this Court on appeal, such Judge may make such rule or order, for the safe keeping, transporting, or return of such original papers, as to him may seem proper, and this Court will receive and consider such original papers in connection with the transcript of the proceedings.

**RULE 15th.** No certiorari upon a suggestion of a diminution of the record, shall be ordered in any cause, unless a motion shall be made therefor in writing, setting forth the facts upon which the same is founded, which, if not admitted by the other party, shall be verified by affidavit; and all such motions shall be made at the Terms at which the cause is sent up to this Court, otherwise they shall not be granted, unless upon special cause shown to the Court accounting for the delay.

**RULE 16th.** In all causes brought up to this Court, it shall be the duty of the plaintiffs' Counsel to assign errors, or file exceptions, as the case may be, and he shall not be permitted in argument to discuss any other matters on the record, save those included in the bill of errors, or exceptions, filed.

**RULE 17th.** Immediately after the opening of Court on each day and before argument, the Court will entertain motions.

**RULES**  
**ADOPTED BY THE COURT OF APPEALS,**  
**FOR THE**  
**GOVERNMENT OF THE PRACTICE**  
**IN THE**  
**SUPERIOR COURTS OF FLORIDA.**

JANUARY TERM. 1833.

" See. 12. Be it further enacted, That the said Court of Appeals shall have power, and it shall be its duty to make all necessary rules for the regulation of the superior courts, as well as for the Court of Appeals"—*Act of the Legislative Council, approved Feb. 10, 1832.*

**TERRITORY OF FLORIDA:**  
**CITY OF TALLAHASSEE:** }  
**COURT OF APPEALS:** }  
*January Term, 1833.* }

**Present:**

The Hon.

THOMAS RANDALL,  
 Judge of Middle Florida, and President of the Court.

The Hon.

JOHN A. CAMERON,  
 Judge of West Florida.

The Hon.

ROBT. RAYMOND REID,  
 Judge of East Florida.

THO. ESTON RANDOLPH,  
 Marshal.  
 JAMES S. LINN,  
 Clerk.

Judge WEBB, of the Southern District, was prevented from attending the Court by unavoidable circumstances.

**RULES**

**LAW DEPARTMENT.**

**I.** All Inquisitions and Recognizances shall be returned as soon as practicable after they are taken, to the Clerk of the Superior Court, where they are properly returnable; and the Clerk of the Court shall transmit the same by the first safe conveyance (the mail excepted) to the District Attorney.

**II.** All Recognizances by order of Court, shall be taken and entered of record by the Clerk, under the direction of the District Attorney.

**III.** The usual forms of receiving bills and arrainging prisoners, shall be observed in the Courts.

**IV.** The right of concluding a Criminal case belongs to the District Attorney, but cannot be delegated by him to another person.

**V.** If defendants under recognizance fail to appear when the Criminal Docket is under consideration and their cases called in order, their recognizances shall be estreated and forfeited.

**ATTORNEYS AT LAW.**

**VI.** Persons making application for admission to the Bar, shall apply by petition to one

of the Judges of the Superior Courts, presenting with the said petition, evidence of having attained the age of twenty-one, and of good moral character; if he appears to be made in vacation, the said Judge shall, at a convenient season, thoroughly examine, at his chamber, the said applicant, and if found qualified, the Judge shall cause him to be duly *sworn in*, and shall issue to him a License, in the following form:

"At Chambers,      day of      18

To A. B. Esquire.

THESE are to permit you to practice as an Attorney, Counsellor and Solicitor, in the several Courts of the Territory of Florida.

C. D.

Judge S. C.      D.      Florida."

which said licensee shall be recorded by the Clerk upon the minutes of the Court, and then delivered to the Attorney; and the said Clerk may, if required, issue to said Attorney at Law, the following commission, for which he may charge and receive the sum of five dollars.

#### "TERRITORY OF FLORIDA.

KNOW ALL MEN by these presents, that A. B. Esquire, having made application to plead and practice in the several courts of this Territory, and the said A. B. Esquire, having given satisfactory evidence of good moral character, as the law directs, and having been duly examined touching his knowledge of the Law, and found well qualified and skilled therein: He is admitted to all the privileges of an Attorney, Solicitor and Counsellor at Law in the several Courts of this Territory.



IN WITNESS whereof, the Presiding Judge hath hereunto set his hand, with the seal of the Court annexed, this      day of      in the year 18

C. D.

Judge S. C.      D.      Florida."

E. F. Clerk.  
If the application be in Term, the Court shall appoint two members of the Bar to examine the applicant, and shall administer to them the following oath: "You and each of you, do solemnly swear that you will, well and truly, examine A. B. touching his qualifications as an Attorney and Counselor at Law and Solicitor in Equity, and that you will faithfully report the result of such examination to the Court. So help you God!" And the said examination may proceed in open court, or be conducted in private, at the election of the examining Committee; if the report of the Committee be favorable to the applicant, the License and Commission shall issue, as aforesaid. Though the above shall be the usual course of proceeding, nothing herein contained, shall prevent the Judge from alone conducting the examination in open court, or appointing a committee to examine in vacation, should the said Judge think proper to do so.

VII. A license such as is described in the foregoing rule, or a certificate under the hand and seal of the clerk, of one of the circuit courts of the United States of admission to practice in said circuit court, shall be sufficient to admit the party applying, to appear in any superior court of the territory, as attorney or solicitor—but the license or certificate must be first recorded as the law directs.

VIII. The oath of the applicant for admission to the bar, shall be as follows: "I, A. B. do solemnly swear, that I will support the constitution of the United States. I do further swear, that I will honestly demean myself in my profession, and exercise the duties thereof to the best of my skill and abilities, so help me God!"

IX. No attorney or officer of court shall be taken as bail in any criminal cause, or as security in any appeal, writ of error or other proceeding.

X. It shall be the duty of every attorney to address the court from his place at the bar.

XI. No consent between counsel can be enforced by the court, unless reduced to writing and signed by the parties to the consent.

XII. There shall be but one attorney on record for each party in a cause (except in the case of a law-partnership,) but there may be as many associate counsel as either party may see fit to employ; and the attorney on record shall in all the pleadings and proceedings sign his name to the same, or authorize some person to sign it for him.

*N. B. The rules for the admission of attorneys have no relation to applications of attorney from Alabama and Georgia, under the act of 20th November 1829.*

## CLERKS.

XIII. Every clerk shall keep a separate book, to be called "*the memorandum book*," in which he shall carefully transcribe every *precipe* or *memorandum*, or other direction to issue process, or writs of attachment.

XIV. The clerk shall keep the following dockets, full copies of which shall be furnished by him to the bar, which shall be called "*bar dockets*" in contradistinction to "*bench dockets*"—and the bench dockets shall not be subject to the inspection of the members of the bar, or other person, while the court is in session, viz:

1. **THE COMMON LAW APPEARANCE DOCKET:** containing the cases brought to each term.

2. **THE COMMON LAW TRIAL DOCKET:** containing all the cases standing for trial, and the entries made therein upon the appearance docket.

3. **A MOTION DOCKET:** upon which shall be placed all motions which are *not* of course, and which are *litigated*—and no such motion shall be heard, unless in its order upon said docket.

4. **A SHERIFF'S REPORT DOCKET:** containing all *illegalities* and claims.

5. **A CRIMINAL DOCKET.**

6. **A DOCKET OF APPEALS AND WRITS OF CERTIORARI.**

7. **AN EQUITY DOCKET.**

8. **A DOCKET OF LAND-CLAIMS.**

9. **A SUBPOENA DOCKET.**

10. **A JUDGMENT AND EXECUTION DOCKET.**

11. **A DEAD DOCKET:** on which shall be placed all cases wherein the plaintiff or defendant or both are dead.

XV. The clerk shall also keep a *book of fines*, in which he shall enter the amount of fines—the time at which it was imposed—the amount paid and when, and the disbursement of the same.

XVI. The clerk will strictly observe the regulations contained in the 59th section of the act regulating judicial proceedings, approved 23rd November 1828; and in addition to the provisions of the said 59th section, it shall be the duty of the clerk, on receipt of any deposition to be read in evidence on the trial of any cause, whether said deposition have been taken under a commission or otherwise, immediately, if deposited in due form, to break the seal of the *envelope* and endorse on the said *envelope*, the title of the cause, and, the names of the witnesses whose depositions have been taken, together with the date of the time when the commission issued, and when it was returned to the clerks office—which packet so endorsed, it shall then be the duty of the clerk to place on file, among the pleadings of the cause.

XVII. The clerk shall make upon his minutes, a note or statement of all documentary evidence read on any trial; if deeds or other instruments of writing—the names of the parties and date: if depositions—the names of deponents and date of their depositions:—and shall endorse upon every plea, or exhibit in a cause, the time of filing the same.

## INTERROGATORIES.

XVIII. All objections to the execution of the commission for taking interrogatories, or to the manner in which depositions are taken, shall be made and disposed of, before the parties go into the trial of the cause.

XIX. All objections to interrogatories or the form in which they are conceived, must be assigned in writing by the *cross examinant* before the depositions are taken.

## MOTIONS AND NOTICES.

XX. All notices required by the law or by these rules, shall be in writing [unless when otherwise directed] and affidavits of the service thereof, will be required by the court, if said service be denied by the opposite party—and not otherwise.

XXI. All motions arising in cases upon the appearance docket, and all demurrers shall be argued when the cases are called on the said docket, but the court may in its discretion, continue said motions and demurrer for advisement, and order them to be placed on the motion docket.

XXII. The first hour of the session of the court on each day, after the first day of the term, shall be occupied in the consideration of the motion docket; unless the court shall think fit to direct otherwise.

**XXIII.** Notices to produce books and papers must be given ten days at least, before the case is called for trial; but the court must be satisfied that such books and papers are material in the cause; and that the notice was not given for delay. If a nonsuit be ordered because the plaintiff does not comply with the notice, or a judgment by default be entered in case of non-compliance by defendant—the said nonsuit may be set-aside, and the case reinstated, in the event of the production of said books or papers during the term; and the said judgment by default may be set-aside at any time during the trial; provided, the defendant has complied with the notice. All such notices shall be made known to the court and insisted upon, before the parties go into the trial of the cause; otherwise, they shall be considered as waived and dispensed with.

**XXIV.** Upon all motions and rules to show cause, the party showing cause or objecting to the motion, shall commence and conclude. And no motion, not in its nature *ex parte*, except those made for the continuance of causes when called for trial, shall be made in any cause, without reasonable notice served on the Attorney for the opposite party.

### NEW TRIALS.

**XXV.** If no motion be made for a new trial, or in arrest of judgment, within four days after a verdict rendered, final judgment thereon shall be entered; but if the Court should be about to adjourn, before the expiration of the said four days, such motion must be made and submitted for argument, before the adjournment of the Court. And when the Court shall adjourn after any jury trial, before the lapse of the said four days, the judgment shall be entered as of the same term, at which the cause was tried, and in no case, unless for special reason, delayed until the next term.

**XXVI.** No motion for a new trial shall be made, unless due notice thereof shall be served on the opposite party, with a statement of the grounds on which it is intended to make the motion.

**XXVII.** The Court will grant new trials in all cases tried by a jury, wherein the verdict is against law or evidence, or against the manifest weight of the evidence, or where there has been any material mistake, or misconduct of the jury; or where the damages awarded by the jury are grossly excessive, and in the opinion of the Court are unreasonable; or where the party applying for a new trial, alleges, and shewn by affidavits the discovery of new and material evidence, which he was not aware of, and could not produce at the trial.

**XXVIII.** In all cases of new trials granted, except where the verdict is against law or evidence, the costs of the former trial shall be paid *instanter* by the party obtaining the new trial.

### ORDER OF BUSINESS—PLEADING—PRACTICE.

**XXIX.** The Court shall call its Dockets of cases for trials *twice* at each term, if time allows thereof.

**XXX.** When a case is called in its order, the same must be tried, continued or dismissed, but by consent, the cause may be placed at the foot of the docket to be again called; if there be time for the second calling of the docket, and if there be not, to be continued. ~~if~~ The second calling must be peremptory.

**XXXI.** Parties must be prepared to proceed within five minutes after the case is called in its order, otherwise, the Court may dismiss the case, or rule the defendant to a trial, as sound discretion may direct.

**XXXII.** In all cases where application is made for continuance, [unless on the ground of a sudden and unexpected emergency] the party making the application must have his affidavit prepared and ready to be read, on the calling of the cause.

**XXXIII.** The plaintiff shall, in no case, be compelled to submit to a non suit—if he be in a condition to demand and proceed to trial; but if he desire to submit to a non suit, he must do so before the jury retire, or commence their deliberations on their verdict.

**XXXIV.** The plaintiff may at any time discontinue his cause, on entering such discontinuance in the Clerk's office, and paying all costs.

**XXXV.** The time for calling the Criminal docket shall be announced at the opening of the Court, on the second day of the term, and the said Docket shall be called at the time appointed, in the same manner and order as the Civil Trial Docket is called.

**XXXVI.** All Declarations must be filed on or before the first day of the term; and all Pleas, Answers or Demurrers, on or before the calling of the Appearance Docket, on the first day of the term.

XXXVII. All issues may be made up when the cases are called for trial, but when a demurrer is filed, notice thereof must be given in time, for joinder therein, before the appearance docket shall be called.

XXXVIII. The mere entry of the name of the Attorney for the defendant, shall be equivalent to the filing of the general issue, at the first term—but if no plea be filed on or before the first day of the second term, with notice thereof to the plaintiff's attorney—the plaintiff may enter his judgment by default, for want of a plea.

XXXIX. If the plaintiff fail to file his declaration on or before the first day of the term, the next shall be considered the appearance term, and if the declaration be not filed on or before the first day of the next or second term, the case shall, on the calling of the appearance docket, be dismissed.

XL. No default shall be opened, without the payment of all costs that have accrued, and pleading *instanter* to the merits of the action.

XLI. No amendment of the pleadings shall be allowed after the case has been submitted to the jury. The case shall be considered as submitted, after the plaintiff shall have read the declaration in the cause.

XLII. All amendments of mere form shall be ordered *instanter* and without prejudice to either party. Amendments affecting the merits of a cause, may be ordered at the discretion of the court, upon payment of costs, and on such terms as the court may think proper to impose; but where a substantial amendment is made, the opposite party may continue on motion.

XLIII. In all actions where the general issue may be pleaded, and the defendant thinks proper to plead the same, he may, instead of additional special pleas, give notice in writing of any special matter which he intends to give in evidence on the trial, subjoining such notice to the plea of the general issue, and to which notice no replication shall be necessary; and the said notice shall form a part of the record in the cause, but the defendant in all cases, may plead as many special pleas, though inconsistent with each other, as he may deem fit.

XLIV. If a demurrer to any declaration, or any count in a declaration be over-ruled, or the prayer for leave to plead further by the defendant, such leave will be granted, only on payment of costs, and on terms of pleading issuably *instanter*, and going to trial at the same term of the court, if the cause by due course of law be triable at that term, if not, at the ensuing term. If the demurrer be sustained, the plaintiff shall have leave to amend, on payment of all costs, but in that case, the defendant shall not be compelled to go to trial until the next term of the court. In the case of a demurrer to any other pleading in a cause, on the decision thereof, the court will make such order, or give such judgment as law and justice shall require.

XLV. Suits may be brought by a plaintiff for the use of another person named in the process or the pleadings.

XLVI. Where documentary evidence is introduced in a cause it shall be forthwith filed with the clerk, and considered in the custody of the court. Such papers as belong of right to the party may be withdrawn upon cause shown in the progress of the suit, or after the case is at an end, on motion and by order of court, upon such terms as the court may prescribe.

XLVII. In all examinations of witnesses, the party introducing the witness shall first examine him, and after the cross examination by the opposite party, and a re-examination by him taking the witness, the examination shall cease, unless by special permission of the court. Only one counsel on each side, shall conduct the examination of witnesses, but the court, on application, may allow counsel to relieve each other, in the course of a protracted examination.

XLVIII. Only one counsel shall be heard in conclusion. When the defendant introduces no evidence he is entitled to the conclusion. In cases of claim, the plaintiff in execution is entitled to the commencement and conclusion, except where the claimant introduces no evidence.

XLIX. Where a party applies for a continuance on the ground of the absence of a witness, it must be shown by affidavit, that the witness has been duly served with a subpoena or a satisfactory reason assigned for the omission; that he is absent without the consent of the party directly or indirectly given; that he resides in the county where the suit is pending, or if out of the county, good cause must be shown for not taking his deposition; that the testimony is material; that the applicant expects to procure said testi-

mony at the next term; that the application is not made for delay only; and the party must further state the facts expected to be proved by said witness.

L. The court will in all cases, in its discretion, for good cause shown on a trial, order a juror to be withdrawn—and in such a case the cause shall be continued until the next term, unless the parties agree, with consent of the court, to a trial at the same term.

L<sup>1</sup>. The counsel on either side may *except* to any decision made by the court during the trial, on the admission or rejection of evidence, or on any point of law, and may also except to any opinion given in the judges charge to the jury, and may request the judge to charge the jury in any particular manner on a point of law, and if the request be refused or neglected, an exception may also be taken to such refusal or neglect.

LII. Whenever any *exception* is taken to any decision made, or opinion given by the judge, or to his refusal or neglect to charge the jury as requested, the counsel taking the exception, shall hand to the judge a note thereof, and pray the same to be entered on the minutes; after which, before the adjournment of the court, if there be time, the bill of exceptions shall be drawn up in form, and the original or a copy thereof delivered to the counsel of the opposite party, who shall have reasonable time to suggest amendments, to the same, and if the counsel on both sides cannot agree on the amendments suggested, both the bill and the amendments shall be submitted to the judge for his correction, and when completed, it will be signed and sealed by the judge and delivered to the party obtaining it, and by him filed in the clerk's office, where it shall form a part of the record in the case, in the event of writ of error or appeal; but no bill of exceptions shall be filed if not drawn up, completed and signed within thirty days after the adjournment of the court.

LIII. Previous to the entry of final judgment in any cause, the clerk shall make out a bill of the costs, or the attorney for the party entitled to the judgment, may make out the bill, with the aid of the clerk, and the bill or a copy thereof, before taxation, shall be shown to the attorney for the opposite party, and if any objection to it be made, it shall be submitted to the court for correction, and be finally taxed, when the amount of it shall be entered of judgment, either as forming a part of the judgment in the cause, or for the costs alone as the case may require.

LIV. Whenever costs are awarded on any proceeding in a case, whether setting-aside defaults, over-ruling demurrers, or motions, or granting continuances, they shall be paid *instanter*, or if not paid, judgment shall be entered for them, on motion, and execution may issue on such judgments, as in other cases.

LV. Whenever any cause is discontinued by order of the court, for want of due prosecution, judgment thereon as in case of *non-suit* or *non-pros*. as the case may require, shall be immediately entered by the clerk for the costs after being taxed.

The judges of the court of appeals have adopted the foregoing rules for the government of the practice in the several districts of Florida. They do not believe the *system* presented to their brethren of the bar is a perfect one, but they entertain the opinion, notwithstanding, that it is better, than *no system at all*. It will be their duty hereafter to revise these rules—to expunge such as may prove inconvenient in practice, and to add others which *their own experience, and the learning and intelligence of the bar*, may from time to time suggest.

## TITLES OF ACTS.

Chap 658 [No. 1.] An act, in addition to an act entitled an act concerning divorces and alimony approved October 31st 1828  
(February 4th 1833.)

Chap 659 [No. 2.] An act amendatory and in addition to an act relating to roads, highways and bridges passed 1st February 1832.  
(February 6th 1833.)

Chap 660 [No. 3.] An act more effectually to secure the solvency of all the banks in this territory, and to subject them to the payment of damages, if they fail, or refuse to pay specie for their notes when demanded.  
(February 6th 1833.)

Chap 661 [No. 4.] An act, regulating the rate of interest.  
(February 12th 1833.)

Chap 662 [No. 5.] An act to authorize the county courts in this Territory to appoint inspectors of beef in their respective counties.  
(February 12th 1833.)

Chap 663 [No. 6.] An act concerning estrays.  
(February 12th 1833.)

Chap 664 [No. 7.] An act, regulating the mode of proceeding on attachments.  
(February 17th 1833.)

Chap 665 [No. 8.] An act regulating appeals in certain cases, not heretofore provided for by law.  
(February 17th 1833.)

Chap 666 [No. 9.] An act to provide for appeals, and writs of error in criminal cases.  
(February 17th 1833.)

Chap 667 [No. 10.] An act regulating damages on bills of exchange.  
(February 17th 1833.)

Chap 668 [No. 11.] An act in addition to an act entitled "an act concerning wills, letters testamentary, and letters of administration and the duties of administrators and guardians, approved November 20th 1828."  
(February 17th 1833.)

Chap 669 [No. 12.] An act, to repeal parts of acts in said act specified.  
(February 17th 1833.)

Chap 670 [No. 13.] An act, to repeal an act to provide for the speedy settlement of all the arrears due the Territory of Florida, approved February 12th 1832, and for other purposes.  
(February 17th 1833.)

Chap 671 [No. 14.] An act concerning patrols.  
(February 17th 1833.)

Chap 672 [No. 15.] An act concerning executions.  
(February 17th 1833.)

Chap 673 [No. 16.] An act amendatory of the several statutes of this territory concerning attachments and executions.  
(February 17th 1833.)

Chap 674 [No. 17.] An act supplemental to an act concerning limitations of actions passed November 4th 1828.  
(February 17th 1833.)

Chap 675 [No. 18.] An act to provide for holding an election for delegates to Congress, from this Territory, members of the Legislative Council and certain other officers.  
(February 17th 1833.)

Chap 676 [No. 19.] An act relating to fees. (February 17th 1833.)

Chap 677 [No. 20.] An act concerning the commissioners of the Tallahassee fund. (February 17th 1833.)

Chap 678 [No. 21.] An act to establish county courts, and prescribe their jurisdiction. (February 17th 1833.)

Chap 679 [No. 22.] An act relating to justices of the peace. (February 16th 1833.)

Chap 680 [No. 23.] An act, amendatory of the act of November 21st 1828, entitled "an act regulating judicial proceedings. (February 16th 1833.)

Chap 681 [No. 24.] An act to change the time of holding the superior courts in the counties of Walton, Washington, Jackson, Fayette and Franklin. (February 2nd 1833.)

Chap 682 No. 25.] An act to alter the time of the County Court of Gadsden County. (January 31st 1833.)

Chap 683 No. 26.] An act to provide for an additional term of the superior court in Hamilton County. (February 9th 1833.)

Chap 684 No. 27.] An act to prescribe the times of holding county courts in the County of Monroe. (February 11th 1833.)

Chap 685 No. 28.] An act to fix the times and places for holding the several terms of the superior court of the District of East Florida for the County of Duval, Nassau, Alachua, and Columbia. (February 9th 1833.)

Chap 686 [No. 29.] An act, to establish the eastern boundary line of Jefferson County. (February 9th 1833.)

Chap 287 [No. 30.] An act to define and fix the southern and western boundary line of Jackson County. (February 16th 1833.)

Chap. 688. No. 31. An act more accurately to define the boundaries of Fayette County, and for other purposes. February 16th 1833.

Chap. 689. No. 32. An act to authorize the county court of Nassau County to lay a tax, for the purpose of building bridges in said county. "February 16th 1833."

Chap 690 "No. 33." An act to provide for the permanent location of the county site in Walton County and for other purposes "February 16th 1833."

Chap 691 "No. 34." An act to establish and regulate the rates of pilotage for the St. Johns and Nassau rivers in the Territory of Florida. "February 1st 1833."

Chap 692 "No. 35." An act respecting the public property at St. Marks. "February 16th 1833."

Chap 693 "No. 36." An act amendatory of the several acts providing for the building a jail at Key West. "February 17th 1833."

Chap 694 "No. 37." An act to abolish the tax on hawkers and pedlers in certain cases therein named. "February 15th 1833."

Chap 695 "No. 38." An act to organize and regulate the militia of the Territory of Florida, and to repeal an act passed 1st day of February 1832. "February 17th 1833."

Chap 696 "No. 39." An act providing for the establishment and organizing of the St Augustine guards. "February 15th 1833."

Chap 697 "No. 40." An act to incorporate the subscribers to the Union Bank of Florida. "February 13th 1833."

Chap 698 "No. 41." An act amendatory to the several acts incorporating the Bank of West Florida. "January 23d. 1833."

Chap 699 "No. 42." An act to extend the time limited by law for subscribing for the stock of the Bank of Pensacola. "January 23d. 1833."

Chap 700 "No. 43." An act to incorporate the Commercial Bank of Florida. "February 13th 1833."

Chap 701 "No. 44." An act, to amend an act entitled "an act to incorporate the Bank of Florida, and to repeal an act to incorporate the Bank of Florida passed the 17th of November 1829. "February 1st 1833."

Chap 702 "No. 45." An act to incorporate the Protestant episcopal congregation at Key West. "February 4th 1833."

Chap 703 "No. 46." An act to incorporate the columbia seat company of Key West. "February 17th 1833."

Chap 704 "No. 47." An act to incorporate the St Johns and St Augustine Canal Company. "February 15th 1833."

Chap 705 "No. 48." An act to incorporate the Marianna Academy. "February 6th 1833."

Chap 706 "No. 49" An act to incorporate the Presbyterian congregation of Tallahassee. "February 16th 1833."

Chap 707 "No. 50." An act to incorporate the town of St marks. "February 1st 1833."

Chap 708 "No. 51." An act to incorporate the City of St. Augustine and to repeal the act entitled "an act to incorporate the City of St. Augustine approved 11th February 1831. "February 4th 1833."

Chap 709 "No. 52." An act to incorporate the City of Pensacola, and to repeal the act entitled "an act to incorporate the City of Pensacola; and improve the public roads in the neighborhood thereof approved 5th December 1825." "February 15th 1833."

Chap 710 "No. 53." An act to amend the several acts incorporating the town of Apalachicola, and for other purposes. "February 16th 1833."

Chap 711 "No. 54." An act in addition to the several acts concerning the City of Tallahassee. "February 17th 1833."

Chap 712 "No. 55. An act to incorporate Senybal and Murray Towns. "February 17th 1833."

Chap 713 "No. 56." An act declaring cold water creek in Escambia County, a navigable stream. "February 9th 1833."

Chap 714 "No. 57." An act to declare Ocklawaha river, in the County of Alachua and St. Johns, a navigable stream. "February 16th 1833."

Chap 715 "No. 58." An act to establish a ferry over Sawannee River. "January 19th 1833."

Chap 716 "No. 59." An act to establish a ferry across the Withlau-coochy. "January 25th 1833."

Chap 717 "No. 60." An act to establish a ferry over the Wakulla River at St. Marks. "January 25th 1833."

Chap 718 "No. 61." An act to authorize John M. Wright to establish a ferry on the Ocklocknee River. "February 15th 1833."

Chap 719 "No. 62." An act, to revive and continue in force "an act authorizing a ferry over St. Johns at Jacksonville. "February 16th 1833."

Chap 720 "No. 63." An act to authorize Joshua A. Coffee and Francis Faulk to establish a ferry across St. Johns River. "February 16th 1833."

Chap 721 "No. 64." An act to amend an act to authorize the disposition and sale of certain lands belonging to the heirs of John Tanner deceased, and to appoint a Trustee to carry the same into effect. "January 31st 1833."

Chap 722 "No. 65." An act for the relief of the heirs of John Collins deceased. "February 6th 1833."

Chap 723 "No. 66." An act authorizing the conveyance of a tract of land belonging to the estate of Joseph M. Sanchez deceased to the legal representatives and heirs of Jeremiah Ives deceased. "February 15th 1833."

Chap 724 "No. 67." An act for the relief of the children of Joseph W. and Julia Field. "February 15th 1833."

Chap 725 "No. 68." An act for the relief of the legal representatives of James F. Ringgold deceased. "February 15th 1833."

Chap 726 "No. 69." An act for the relief of Rachel M. Town, widow of Richard Town deceased and her infant children. "February 15th 1833."

Chap 627 "No 70" An act for the relief of Maria Hernandez Dela  
Carera executrix of William Dela Carera.  
"February 16th 1833."

Chap 728 "No 71 An act for the benefit of the legal representatives of  
John Y Garey deceased. "February 16th 1833."

Chap 729 "No 72" An act to authorize Jane Murray to sell the real  
estate of George Murray deceased. "February 16th 1833."

Chap 730 "No 73" An act authorizing the sale of the real estate of  
David Boyd deceased. "February 16th 1833."

Chap 731 "No 74" An act for the relief of William Hilliard and oth-  
ers. "February 6th 1833."

Chap 732 "No 75" An act for the relief of Allen W. Coleman.  
"February 6th 1833."

Chap 733 "No 76" An act for the relief of Shannon and Ballagh.  
"February 9th 1833."

Chap 734 "No 77" An act for the relief of Jane Aikin  
"February 9th 1833."

Chap 735 "No 78" An act for the relief of Francis J. Avice.  
"February 13th 1833."

Chap 736 "No 79" An act for the relief of Allen Faircloth.  
"February 16th 1833."

Chap 737 "No 80" An act for the relief of Joseph F. Wachob,  
"February 16th 1833"

Chap 738 No 81" An act for the relief of Benjamin G. Thornton and  
Jesse H. Willis, "February 17th 1833"

Chap 739 "No 82" An act to provide for the compensation of the of  
ficers of the council and for other purposes,  
"February 17th 1833."



**ACTS**  
OF THE  
**GOVERNOR AND LEGISLATIVE COUNCIL**  
OF THE  
**TERRITORY OF FLORIDA.**

Passed at the Eleventh Session begun and held at the City of Tallahassee, on Monday January the seventh 1833, and ended Sunday February the seventeenth 1833.

WILLIAM P. DUVAL. Governor.  
JAMES D. WESTCOTT JR. Secretary of the Territory.  
JOHN P. BOOTH President of the Council.  
JOSEPH B. LANCASTER, Chief Clerk.



CHAP. 658 [No. 1.] AN ACT in addition to the the act entitled, an ac<sup>t</sup> concerning divorces and alimony, approved October 31, 1828.

Sec. 1. Be it enacted by the Governor and Legislative Council of the Territory of Florida, That in all cases of divorce, if the party against whom the complaint is made shall reside out of this Territory, or have removed, or shall after the cause of complaint have arisen, remove out of this Territory, so that ordinary process cannot be served, or if served the party cannot be compelled to appear and answer or plead, it shall and may be lawful for the superior court on bill filed, and due proof that the defendant resides out of the Territory, or hath removed as aforesaid to order a hearing on the facts charged in said bill and thereupon to pass a decree in the same manner as if the defendant had appeared and were present in court: Pro-

absent defen-  
ent.

See Chap. 24,  
66, 185, 344,  
423.]

vided, that a copy of the said order for the hearing, be published in some public newspaper of this Territory, for the space of three months at least, or for a longer time if the said court shall so direct, before the day appointed for said hearing: or provided, that a copy of said bill and a copy of said order for the hearing, duly certified by the clerk of said court, shall have been actually served upon or delivered to said defendant at least three months or for a longer time; if the said court shall so direct, before the day appointed for the said hearing. But in every such case before or at the said hearing, satisfactory evidence shall be produced to the said court, that the said notice by publication in some newspaper or by a copy of said bill and order, actually served upon or delivered to the said defendant, has been duly given as directed by this act, or in default thereof no decree against the said defendant shall pass. It is also further provided, that the said defendant after such notice may at any time before or at said hearing appear and plead or answer to and defend against said bill.

PASSED, January 31, 1833.

APPROVED, February 4, 1833.

CHAP. 659. [No. 2.] AN ACT amendatory, and in addition to an act relating to roads, highways and bridges, passed 1, February 1832.

[See Chap. 613 and acts there cited.]

SEC. 1. Be it enacted by the Governor and Legislative Council of the Territory of Florida, That it shall be the duty of the county courts, in each of the counties of this Territory, on the first Monday in March next, and annually thereafter, to appoint three fit and proper persons in each justice's district, one of whom shall be a justice of the peace, as commissioners of roads and bridges, who shall take an oath before the said court, or some justice of the peace, faithfully to discharge their duties as such: Provided however, that should any county court, fail to make said appointment at the time above directed, they shall as soon thereafter as practicable proceed to do the same.

county courts to appoint three commissioners of roads in each district.

SEC. 2. Be it further enacted, That it shall be the duty of the said commissioners to lay off the roads in their respective districts, into road divisions of convenient length, and apportion the hands, liable to work on the same, and appoint a fit and proper person as overseer to work on each of said road divisions.

commissioner to lay off roads ap'tion hands appoit overseers.

SEC. 3. Be it further enacted, That all able bodied free white males between the age of sixteen and forty-five years, residents of any county in this territory for twenty days, and all able bodied male slaves, free negroes and mulattoes, between the age of sixteen and fifty years residents as aforesaid, shall be liable and

who liable

subject to work on the public roads, and highways, in such counties; Provided however, that all regularly licensed or ordained preachers of the gospel, all teachers of seminaries of learning, post masters, millers, ferry men, light house keepers, pilots and their crew shall be exempt from working on the public roads in this territory.

**SEC. 4.** Be it further enacted, That all commissioners and overseers so appointed, shall serve for one year, or until others are appointed, and they, or one hand for each of them if they are not liable to do road duty themselves, shall be exempt from any other road duty for the time being, and shall receive no other compensation for their services; and every overseer so appointed who shall refuse or neglect to do their duty as directed by the act to which this is an amendment, shall forfeit for every such offence ten dollars, to be recovered by warrant, from under the hand and seal of one of the commissioners in the same district, to be paid to the county treasurer for county purposes; and every commissioner so appointed, who shall refuse or neglect to discharge the duties required of him by this act, shall forfeit and pay twenty dollars, to be recovered by warrant from under the hand and seal of a justice of the peace in said district and paid to the county treasurer for county purposes.

**SEC. 5.** Be it further enacted, That the said commissioners shall have power to form their own meetings, adopt their own rules and regulations, and collect fines, which shall be paid over to the county treasurer for county purposes.

**SEC. 6.** Be it further enacted, That all laws and parts of laws militating against the true intent and meaning of this act, be and the same are hereby repealed.

PASSED Feb. 4, 1833.

APPROVED Feb. 6, 1833.

CHAP. 660, [No. 3.] AN ACT more effectually to secure the solvency of all the Banks in this Territory, and subject them to the payment of damages if they fail or refuse to pay specie for their notes when demanded.

**SEC. 1.** Be it enacted by the Governor and Legislative council of the Territory of Florida, That from and after the passage of this act, it shall be the duty of the President and directors of each incorporated bank or incorporated company exercising banking privileges in this Territory, to make annual return on the first Monday in November in every year, of the names of the stockholders, the amount of stock owned by each individual, or company, and the amount of money actually paid into the

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commissioners  
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penalty for ne-  
glect of duty  
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commissioner

how recovered

commissioners  
powers

former laws re-  
pealed

Banks to make  
return to gov-  
1 Nov, annual-  
ly

tunds of each bank on each share respectively, and forward the same to the Governor for the time being, to be laid before the Legislative Council at its first session thereafter.

SEC. 2. And be it further enacted, That it shall be the duty of the president and directors aforesaid, and they are hereby required to give a minute statement of the standing and management of each incorporated bank or company, exercising banking privileges in this territory, and their branches, on the first Monday in November next, and annually thereafter, and forward the same to the Governor for the time being, shewing particularly the amount of bills on other banks, the amount of gold and silver and bullion in their vaults, the amount of debts due them at the north or elsewhere, which may be denominated specie funds, the amount of active or running paper, the amount in suit, the amount under protest and not in suit, and clearly shewing what amount of all the debts due the bank is considered good, what amount doubtful, and what amount is considered bad, and lost to the bank, the amount of issues by each bank, the amount of bills in circulation, and the amount of bills of said bank in circulation on the amount of deposite, and the highest amount due and owing by each bank, the amount of property of every description, real, personal or mixed, and of offsets of every kind held by them respectively on the day aforesaid, which return shall be laid before the Legislative Council in the manner provided in the preceding section.

SEC. 3. And be it further enacted, That should the president and directors of any one or more of the aforesaid banks, fail to comply with the spirit and true intent and meaning of this act, it shall be the duty of the Governor for the time being to notify the treasurer of this territory, whereupon it shall not be lawful to receive the bills of any such delinquent bank or banks, in payment of any debts due to the territory: And it shall be the duty of the treasurer to issue a circular to all the tax collectors and auctioneers and other persons, who may be intrusted with the collection of the revenue, directing them not to receive the bills of such delinquent bank or banks, until they shall have made such returns as are required by this act—the said circular to be published in the several newspapers of the territory.

SEC. 4. And be it further enacted, That the notes and bonds hereafter made payable at and discounted by any bank, shall when transferred to any other bank continue payable in the bills of the bank at which they were so made payable and discounted in the same manner and on the same principles as if they were holden by the bank at which they were made payable, and by which they were discounted: Provided, that nothing herein contained shall be construed to take away from any bank any rights which are secured to it by the provisions of its charter.

SEC. 5. And be it further enacted, That all returns required to be made by this act, shall be made on the oath of the presi-

statement to be  
minute etc.

What to con-  
tain, etc. I

On failure gov-  
to notify trea-  
surer

Treasurer to  
issue and pub-  
lish circulars to

Notes payable  
at Bank to con-  
tinue payable  
there.

Return to be  
made on cash.

dent and cashier of the respective banks, and a copy of such each shall accompany and be appended to said return.

SEC. 6. And be it further enacted, That when any bank now incorporated, or which may hereafter be incorporated in this territory, shall fail or refuse to pay specie for any of its bills, notes drafts or other writing for which they may be bound when demanded by any individual or individuals and held as his or their own property, upon suit thereon such individual or individuals in addition to the lawful interest, shall recover and receive twenty per centum damage for such refusal or failure upon the amount so refused or failed to be recovered in specie. Provided, that nothing in this act, shall be so construed as to authorise any bank or other incorporated institution or broker to recover the damages contemplated by this act.

PASSED Feb. 7, 1833.

APPROVED Feb. 9, 1833.

[See Chapters  
458, 468, 597,  
and acts there  
cited.]

The rate of in-  
terest not more  
than ten per.  
cent.

Penalties for ta-  
king more than  
ten per. cent.

CHAP. 661. [No. 4.] AN ACT regulating the rate of interest.

SEC. 1. Be it enacted by the Governor and Legislative council of the Territory of Florida, That from and after the passage of this act, no person or persons shall upon any contract whatever, take directly or indirectly, for the loan of any money, wares, merchandize, bonds, notes or other commodities, whatsoever, above the rate of ten dollars, for the loan of one hundred dollars for one year, and after that rate for a greater or less sum, or for a longer or shorter time, and all bonds, contracts, covenants, conveyances or assurances hereafter to be made, for payment or delivery of any money, goods, wares or merchandize to be lent, on which a higher rate of interest is received or taken, than is hereby allowed, shall forfeit the amount of said interest. Provided, that when no rate of interest be expressed, no higher rate than six per centum shall be charged.

SEC. 2. Be it further enacted, That every person who upon any contract shall take, accept, or receive, by way or means of any corrupt bargain, loan, exchange, or shift of any money, goods, wares, merchandize, or lands, notes or other things whatsoever, above the rate of ten dollars for the forbearance or giving day of payment, of one hundred dollars for one year, and so after that rate for a greater or less sum, or for a longer or shorter time, and so after that rate or proportion for goods, wares, merchandize, commodities bonds or notes, when such shall be lent, contracted or agreed for, taken, accepted or received, shall forfeit and loose for every such offence, the whole amount of interest then due, one half of which for the future shall be paid into

the treasury of the county in which such offence shall be committed, and the other half to him or them who will inform and sue for the same, to be recovered with costs by action of debt in any court of record in this territory: Provided, that if the borrower should be the informer as aforesaid, then and in that case, the whole amount thus recovered shall be paid into the treasury for the use of the county.

SEC. 3. Be it further enacted, That when any note, notes, bond or bonds, shall or may be upon or on account of any usurious contract, the interest on the same shall be void, and the obligor or obligors, forever exonerated from the payment of the same, and the obligor or obligors shall be deemed by this act competent witnesses to prove the usurious consideration of any such note or notes bond or bonds: Provided this act shall not be construed so as to prohibit the sale of notes or bonds which may have been fairly and *bona fide* given, and not given for the purpose of evading this act.

SEC. 4. Be it further enacted, That in all cases whatsoever when any suit or action shall be brought in any court of record in this territory, touching or concerning any usurious bond, specialty, promise or agreement, the borrower or party to such usurious bond specialty, promise or agreement, from whom such higher rate of interest is or shall be taken shall be a good and sufficient witness to give evidence of such offence: Provided, that if any person against whom such evidence is offered to be given, will deny upon oath, to be administered in open court, the truth of what such witness offers to swear against him, then such evidence shall not be admitted, and if any witness or party shall forswear him or herself in any such matter, and be thereof lawfully convicted, he or she shall suffer all the pains and penalties by law inflicted on persons convicted of wilful and corrupt perjury.

SEC. 5. Be it further enacted, That from and after the first day of March next, any person or persons who shall be lawfully convicted of violating this act, shall be and is hereby forever disqualified from being a director of any bank or banks in this territory, and any person or persons who may after the passage of this act, be elected or chosen director of any bank in this territory, before entering on the duties of his office, shall take the following oath to wit: I do solemnly swear (or affirm) that I have not, either directly or indirectly, violated the act entitled, "an act regulating the rate of interest," nor will I be guilty of violating said act, directly or indirectly whilst I continue in the office of director, so help me God.

SEC. 6. Be it further enacted, That it shall be the duty of the Judges of the superior courts to charge the Grand Juries of their respective counties within their districts, to present all and every person who may violate the provisions of this act, that may come within their knowledge, and on every such pre-

Obligor exonerated in case of usurious interest made competent witnesses.

Oath to be administered in certain cases.

Disqualification of persons violating this act.

Duties of superior courts & district attorneys in relation to this act.

sentment it shall be the duty of the district attorney to prosecute the party presented for the amount of interest by this act forfeited, either in an action of debt in the name of the territory, or upon information filed, and in every such case when the said district attorney shall prosecute the said action or information to effect, there shall be taxed in his favor in the bill of costs against the defendant a fee of fifteen dollars.

**SEC. 7.** Be it further enacted, That all laws and parts of laws conflicting with the true intent and meaning of this act, be and the same are hereby repealed. And that this act shall be in full force from and after the first day of March next.

*Passed Feb. 6th 1833.*

*Approved Feb. 12th 1833.*

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**CHAP. C62. (No. 5.) AN ACT to authorize the County Courts in this Territory to appoint inspectors of beef in their respective Counties.**

County courts  
to appoint in-  
spectors of beef

**SEC. 1.** Be it enacted by the Governor and Legislative Council of the Territory of Florida, that in each and every county in this Territory, where a butchery is, or shall hereafter be established, for the purpose of preparing beef for exportation, whether the same be on foot, or jerked, or salted, or otherwise prepared, it shall and may be lawful for, and is hereby declared to be, the express duty of the County Court, to appoint a beef inspector or inspectors as may be most convenient; whose duty it shall be to perform the services hereinafter mentioned.

**SEC. 2.** Be it further enacted, that it shall be the duty of the beef inspectors thus appointed punctually to attend upon short notice, at such butchery, on each and every occasion, when beeves are delivered there, to the proprietor of the same or his agent, and to register in a book by him, (the inspector) to be kept for that purpose, the artificial marks and brands of each and every beast delivered, as well also as the material marks and age of each beef, as nearly as practicable, together with the name of the person from whom purchased.

**SEC. 3.** Be it further enacted, that it shall be the duty of the said beef inspectors respectively, once in three months, to make and return to the clerk of the county court of the county wherein such butchery is situated, a true copy of all his entries in his said book, and a true statement of all his proceedings in his said office; and it is hereby declared to be the duty of such clerk to file the same for the inspection of all persons applying therefor.

**SEC. 4.** Be it further enacted, that it shall be the duty of each and every person or persons engaged in butchery, or otherwise

Duties of the in-  
spectors.

Duties of the  
clerk of the co-  
ourt.

preparing beef for exportation, as aforesaid, after the appointments of inspectors as aforesaid, upon, and at the time of receiving any beef or beeves, from any person or persons, to call upon some one of such inspectors, and notify him to attend, and take the marks and brands as required by law, of the beef or beeves so about to be received, and if such inspector shall thereafter fail to attend promptly, he shall then call upon two disinterested and respectable persons of the neighborhood to perform the duties of inspector. And any person so engaged in butchery, who shall fail to perform the duties hereby enjoined, shall for every offence forfeit and pay to such person as shall make complaint, the sum of one hundred dollars to be recovered in action of debt, one half to the complainant, and the other half to the county, when the said action is prosecuted to judgement.

Penalty for noncompliance with this act.

SEC. 5. Be it further enacted, that the several beef inspectors hereby appointed, shall be sworn to discharge the duties of their respective offices before entering upon the same. And if at anytime any person engaged as aforesaid, in butchery or otherwise preparing beef for exportation, shall give notice to any inspector to attend at the butchery for the purpose herein before expressed, and if said inspector shall fail or refuse to attend except for some reasonable excuse, such inspector shall forfeit and pay to said person for whose use and in whose name the said butchery is conducted, the sum of ten dollars to be recovered by action of debt before any justice of the peace in the district where said inspector resides.

SEC. 6. Be it further enacted that the county court in each county shall have power to fix the rate of allowance to be made to beef inspectors for the duties hereby enjoined, the one half whereof shall be paid by the purchaser, and one half by the seller of any beef or beeves: paying due regard to the amount of business to be done by, and at any butchery, so as to make the allowance reasonable and no more.

County court to fix the rate of allowance to inspectors.

SEC. 7. Be it further enacted that this act shall be in force when in force, from and after the first day April next.

Passed Feb. 7. 1833.

Approved Feb. 12. 1833.

Chap. 663 (No. 6.) AN ACT concerning estrays,

[See chap 375 and acts there cited.]

SEC. 1. Be it enacted by the Governor and Legislative Council of the Territory of Florida, that from and after the passage of this act, it shall and may be lawful for any person, on his own freehold or improvement, or other person having charge of each of such freehold or improvement, in the absence of the owner

What persons authorized to take up estrays and in what manner,

thereof, and not elsewhere, to take up all estrays, whether horse, mare, colt, filly, ass, mule, or neat cattle, sheep, goat or hogs, that may be found straying away from their owners; and every person taking up estrays as above, shall within ten days in case such estrays have been broken to service, take or drive, it or them before a justice of the peace in the county, whose duty it shall be and he is hereby required to take down in writing a particular description of the marks natural and artificial, brands, stature, age and colour of every such estray or estrays; and immediately to issue his warrant to two or more persons of the vicinage commanding them, having been first duly sworn thereto, well and truly to appraise, or ascertain the value of such estrays, which appraisal or valuation and description as above, together with the name of the taker up, and his place of abode, the said justice shall within ten days transmit to the clerk of the county court of said county, having special care that the person or persons taking up such estrays, do solemnly swear or affirm, that he or they have not altered or caused to be altered the marks or brands of such estrays, and to the best of his knowledge and belief such marks or brands have or have not (as the case may be) in any case been altered, and that the owner to him or them is unknown.

SEC. 2. And be it further enacted, That in case any person shall take up any such estrayed neat cattle, sheep, goats, or hogs, he shall cause the same to be viewed by a householder, in the county in which the same shall happen, and the taker up shall be compelled to advertise said estray at least ten days at the place of holding justices courts in said district, prior to tolling, and shall immediately thereafter go with such householder before a justice of the peace for said county, and make oath before him, that the same was taken up at his plantation or place of residence in the said county, and that the marks or brands of such estray have not to the best of his knowledge and belief been altered; and the said justice shall, take from the taker up and householder upon oath, a particular and exact description of the marks, brands, colour and age, of all and every such neat cattle, sheep, goats or hogs, and such justice shall, in manner as above directed, issue his warrant for the appraisal of such estrays; which description and valuation, shall by said justice, within ten days be transmitted to the clerk of the county court by him to be disposed of as herein after directed.

SEC. 3. And be it further enacted, That it shall be the duty of every justice of the peace, before whom any estrays shall be carried as aforesaid, to enter a true copy of the certificate by him transmitted to the clerk of the county court, in a book to be by him kept for that purpose.

SEC. 4. And be it further enacted, That it shall be the duty of the clerk of the county court in each county in this Territory, and he is hereby required to receive and enter in a book by

justice of the  
peace to keep  
a copy of the  
certificate trans-  
mitted to the  
clerk of the co-  
court.

him to be provided and kept for that purpose, all such certificates of description and appraisement, as to him shall be transmitted from the respective justices in the county; and it shall also be the duty of the said clerk of the county court, to affix a copy of said description and valuation to the court house of his county for two successive terms of the county court, after the same shall have been transmitted to him.

a book to be  
kept by the clerk  
to enter certificate  
of description, etc.

SEC. 5. And be it further enacted, That it shall be the duty of the taker up and he is hereby required to bring to the court house or place of holding court in the county in which he resides, and deliver to the clerk of the county court every such estrayed horse, mare, colt, filly, ass or mule, on the first sheriff's sale day, that shall happen after the expiration of twelve months from the time of entering such estray with the justice of the peace: and it shall be the duty of the clerks of the county courts of their respective counties in this Territory, to proceed to sell such estrays as aforesaid on the day aforesaid between the usual hours of sale for the ready money to the highest bidder; which money he shall pay over to the county treasurer for county purposes, after defraying the charges, or fees herein-after directed: and every taker up who shall neglect or refuse to comply with these requisitions: shall be liable for double the amount of the appraisement to be collected by execution under the hand and seal of the clerk of the county court respectively by order of the presiding justice of the county court, at the next term thereafter, and the said forfeiture when collected shall be applied to the use of the county after deducting the legal fees.

how estrays are  
to be disposed  
of.

SEC. 6. And be it further enacted, That in any case any person shall take up as aforesaid any neat cattle, sheep, goats, or hogs, and no person shall appear and make satisfactory proof within three months that the said estrays are his or their property, the justice of the peace, having given two days notice by advertisement in two of the most public places in the justices district, wherein he resides, shall proceed to sell the said estray by his constable upon one of his regular court days, between the usual hours for ready money, to the highest bidder, and it shall be the duty of the justices of the peace of the several counties of this Territory, and they are hereby required to pay to the treasurer of the county of their respective counties of each term of said court, all monies in their hands that have arisen from the sales of estrays as aforesaid deducting five per centum for commissions, and such other charges as are allowed by law; and monies so paid shall be subject to the order of the presiding justice of the county court.

when no owner  
appears with  
in three mont's  
estrays to be  
sold.

SEC. 7. And be it further enacted, That if any person or persons shall within twelve months from the time of such sale prove to the satisfaction of the presiding justice of the county court, that the property so sold was his or their own, or that of his or their employers (as the case may be) in that event the Presiding J. to return the  
money arising  
from the sale  
of estrays in  
certain cases.

presiding justice of the county court shall after deducting the fees and charges hereinafter described direct the money arising from such sale to be paid to the claimant of said property.

SEC. 8. And be it further enacted, That the justice of the peace, for his services as above, shall receive from the taker up, at the time such stray or estrays shall be brought before him or description or valuation presented to him as above, the sum of seventy five cents for each horse, mare, colt, filly, ass, or mule, and the sum of six and a quarter cents for each head of neat cattle sheep, goats or hogs.

SEC. 9. And be it further enacted, That the taker up of such estrays, shall as a compensation for maintaining and keeping the same, put them to immediate service (if capable of service, and if incapable or if he should prefer it, receive from the owner if claimed or from the county court if sold, a reasonable satisfaction to be adjudged by the clerk of the county court and a justice of the peace of the county, according to the circumstances of the case; provided nevertheless, in case of putting such stray to labour, he shall be bound to produce the same to the owner, if claimed or to the clerk of the county court if sold (casualties excepted) in as good condition as when appraised.

SEC. 10. And be it further enacted, That upon the delivery of any such stray to the legal owner; or in the case of sale, upon the sale thereof, the taker up shall receive from the owner or the clerk of the county court, as the case may be, the sum of one dollar for each horse, mare, colt, filly, ass, mule or ox, in addition to the sum by him paid to the justice of the peace, and the sum of twelve and a half cents for each head of neat cattle, sheep, goats or hogs, in addition to the sum above mentioned for the keeping and maintaining the same.

SEC. 11. And be it further enacted, That the clerks of the county courts shall, respectively for the receiving, entering and publishing every certificate and as above directed receive the sum of six cents, to be paid by the owner claiming the property, or deducted from the moneys, arising from the sale of such property; and the further sum of five percentum upon the balance of such money as a compensation for selling or collecting and paying,

SEC. 12. And be it further enacted, That it shall be the duty, of the clerks of the county court in each county in this Territory to render to the presiding justices of their respective counties annually, a true statement of all moneys arising from the sales of estrays, as aforesaid, accompanied with the proper vouchers; and exhibit a correct statement as aforesaid to the grand jury of their respective counties at every fall term thereof, if required.

SEC. 13. And be it further enacted, That if any person or persons taking up any stray as aforesaid and failing or neglecting to comply and fulfil the true intent and meaning of this

Fees of the J.  
P:

reasonable com-  
pensation to ta-  
ker up of es-  
trays.

charges to be  
paid the same.

Fees of the c'k  
of the c. c for  
certificate.

account of sale  
to be made by  
clerk.

penalty for non  
compliance  
with the act.

act, and being thereof duly convicted before the presiding justice of the county court, shall for every such offence forfeit and pay a sum equal to double the value to such estray so neglected to be tolled and advertised as aforesaid, to be recovered by suit, or action at law by any person who may prosecute for the same, and half of the sum so recovered to the use of the informer, the other half to the use of the county.

SEC. 14. And be it further enacted, That if any justice of the peace or clerk of the county court, shall refuse or neglect to perform the duties required by this act, such justice or the peace or clerk of the county court, so neglecting or refusing, shall for every such neglect or refusal forfeit the sum of ten dollars, one moiety to be paid to the party informing and the other moiety to the use of the county where such offence shall be committed, to be recovered by action of debt in any court having jurisdiction of the same and shall moreover be liable to an action of damage to the party injured.

SEC. 15. Be it further enacted, That the provisions of this act shall not be held to extend to any court in the southern district of Florida.

SEC. 16. And be it further enacted, That all laws and parts of laws now in force, so far as they conflict with the provisions of this act, be and the same are hereby repealed.

Passed Feb. 5. 1833.

Approved Feb. 12. 1833.

Justices or clerks  
neglecting or re-  
fusing to per-  
form, liable to  
fine.

Not to extend  
to southern dis-  
trict.

Repealing  
clause.

CHAP. 664 [No. 7] AN ACT regulating the mode of proceeding on attachments.

[see chap. 422  
498. 646 etc.]

SEC. 1. Be it enacted by the Governor and Legislative Council of the Territory of Florida, That it shall be lawful for any clerk of the superior or county courts of this territory, or for any justice of the peace, to grant writs of attachment, directed to the marshal, sheriff, constable, or other officer, commanding him to attach and take into custody, so much of the lands, tenements, goods and chattels, of the person or persons against whose property, the said writ of attachment is issued, as will be sufficient to satisfy the demand of the plaintiff in attachment.

Justices of the  
peace to grant  
writs of attach-  
ment in certain  
cases.

SEC. 2. Be it further enacted, That such writ shall in no case be issued, unless the party applying for the same, his agent, or attorney, shall make oath in writing before such clerk or justice of the peace, that the amount of the debt, sum or property claimed is actually due, and also that his or her debtor is actually removing him or herself out of the territory, or resides beyond the limits of the same, or absconds or conceals him or herself,

When such  
writs shall be  
issued.

so that the ordinary process of the law cannot be served upon him or her, or that his her or their debtor, is removing his, her or their property beyond the limits of the territory, or so secreting or disposing of the same, that the party claiming will be likely to lose his, her or their debt or demand.

*oath to be taken  
etc*

SEC. 3. Be it further enacted, That whenever any person has reason to fear that property to which such person may have a claim, but which is in the possession of another, is about to be taken beyond the jurisdiction of the court, he may make oath that the property legally belongs to him, the said first mentioned person, and that he has reason to believe and does believe, that unless withheld by the writ of attachment the said property will be taken beyond the jurisdiction of the court, in which case it shall be lawful for any clerk of the superior or county court of this territory, or for any justice of the peace, to issue a writ of attachment in the manner provided for by the first section of this act.

*where administrators and executors are non-residents.*

SEC. 4. Be it further enacted, That when administrators or executors reside, or have removed beyond the limits of this territory, and there are assets or other property of the testator or intestate in this territory, it may be lawful for any person having claims against the estate of the deceased, to take out an attachment for the same, upon making the oath herein before required of the existence of the debt, or demand, and of the residence or removal beyond the territory, of such administrator or executor: Provided, however, that this section shall not be construed to apply to such cases where any nonresident administrator or executor, has any authorised and publicly known agent in this territory, or where process can be served, unless an effort is made to withdraw any such estate of any deceased person from this territory.

*Administrator authorized to sue out writs of attachment.*

SEC. 5. Be it further enacted, That executors and administrators, whose letters testamentary, or of administration were granted in any state or territory within the United States, and who have claims and demands as such, against persons residing in the Territory of Florida, where such claims and demands originated in the jurisdiction of the state or territory where such letter-testamentary or of administration were granted, may and are hereby authorised to sue out attachments agreeably to the provisions of the act now in force, regulating attachments, as if their letters testamentary or of administration had been granted in the Territory of Florida: Provided, that a certified copy of such letters testamentary, or of administration, under the seal of the court, in which the same were granted, shall be presented as evidence in such case.

*party suing out  
writs of attachment to give  
bond and security*

SEC. 6. Be it further enacted, That before the issuing of any writ of attachment, the party applying for the same, shall by himself, his agent or attorney, enter into bond with two or more sufficient securities, in a sum double the amount of the debt,

sum, or property claimed, payable to the defendant, conditioned, that the said plaintiff will pay all costs and damages which may be occasioned by the issuing of said attachment, on failure to prosecute the same successfully to judgment.

SEC. 7. Be it further enacted, That the following shall be the form of the writ of attachment.

In the name of the Territory of Florida:

To You are hereby required to attach, and take into your custody, so much of the lands and tenements, goods, and chattels, of as will be sufficient to satisfy in the sum of and costs, and that you make return of this writ or before the day of J. P.

And the form of the bond shall be as follows:

Know all men by these presents: That we, A. B. C. D. E. F. are held and firmly bound unto in the sum of for the payment whereof, we bind ourselves, our heirs and assigns firmly, jointly and severally, by these presents. The condition of the above obligation is such, that whereas the said is about to sue out a writ of attachment against the goods and chattels, lands and tenements of the said

Now if the said shall well and truly pay or cause to be paid, all costs and damages, which may be occasioned by the issuing of said attachment, on failure to prosecute the same successfully to judgment, then this obligation to be null and void, else to remain in full force and virtue.

A. B. [L. S.]

C. D. [L. S.]

E. F. [L. S.]

SEC. 8. Be it further enacted, That affidavit may be made, and writs of attachment issued, as herein before mentioned, at any stage of the cause, concerning, any property, debt or demand claimed as aforesaid.

affidavit may be made & attachment issued at any stage of the cause.

SEC. 9. Be it further enacted, That the service of a writ of attachment, shall not operate to dispossess the tenant of any lands or tenements, but such service shall bind the property attached, except against pre-existing liens, but the judgment in a suit commenced by attachment, shall be satisfied in the same manner, as other judgments obtained at the same term of the court are, or shall be satisfied out of the lands and tenements, goods and chattels, generally, of the defendant in attachment: Provided however, that judgment rendered against any garnishee or garnishees in said suit, shall be appropriated exclusively to the satisfaction of the judgment rendered against the defendant, commenced by attachment as aforesaid.

how for attachments are to bind property.

SEC. 10. Be it further enacted, That when a suit is commenced by attachment as aforesaid, it shall and may be lawful for the officer executing such writ of attachment, to serve upon

duty of officer serving writs of attachment.

the person or persons, who may be named by the said plaintiff as garnishee or garnishees, a notice requiring such garnishee or garnishees to appear at the term of the court, where the said cause is to be tried, to set forth upon oath what goods, chattels, rights and credit, money, and effects belonging to said defendant, were in his her or their hands, power or control, at the time of the service of such notice; and in what sum he or they were indebted to the said defendant at the time aforesaid; and upon the answer so made by the garnishee or garnishees, it shall and may be lawful for the said court to give judgment against the said garnishee or garnishees, for the amount by him or them confessed to be due to the said defendant, in attachment and execution, may issue for the same in favor of the plaintiff, in such attachment: Provided, that said garnishee or garnishees on giving full and sufficient security for the debt, adjudged against him or them, may be entitled to a stay of execution on the same, for the term of one hundred and twenty days; also provided, that the stay hereby allowed shall not exceed thirty days in cases before justices of the peace, and the court shall have power to punish such garnishee or garnishees for a contempt for not appearing at the time fixed in said notice.

when lawfulto  
the plaintiff to  
the garnishee.

SEC. 11. Be it further enacted, That if any garnishee or garnishees shall deny upon oath, that he she or they have any goods or effects, of such defendant, or that he or they are indebted to such defendant; or if the plaintiff in such attachment shall be dissatisfied with the statement of such garnishee or garnishees, it shall be lawful for the plaintiff to make up an issue with such garnishee or garnishees; and a jury shall be summoned and a trial had as in ordinary suits at law.

Personnal pro  
perty levied on  
to remain in the  
custody of the  
officer.

SEC. 12. Be it further enacted, That all personal property levied on by attachment, unless replevied shall remain in custody of the officer who shall attach the same until the judgment of the court shall have been pronounced, but when the property attached, shall be of a perishable nature, it shall and may be lawful for the clerk or justice of the peace, who ordered the attachment, in vacation as well as in term time, to grant an order for the sale of such property, after such public notice as to the said clerk or justice of the peace shall seem expedient, and the process of such sale shall be paid into court, and abide the judgment thereof.

when property  
attached may  
be replevied.

mode of serving  
notices of attach  
men

SEC. 13. Be it further enacted, That the property so attached may at any time be replevied by the said defendant or some other person for him, giving bond to the officer levying such attachment payable to the plaintiff, with good and sufficient security to be approved by such officer in double the amount of the debt, sworn to by the plaintiff, conditioned for the forth coming of the property replevied, and to abide the final order of the court.

SEC. 14. Be it further enacted, That in all cases where property shall be attached and not replevied, a notice of the

stitution of the suit by attachment, shall be personally served upon the defendant, or shall be published for three months in some public newspaper of the district, and if there be no newspaper published in such district, then a written advertisement, in some public place, and such notice shall require the defendant and all other persons interested to appear and plead to the declaration filed in such cases, and it shall and may be lawful, for the court upon satisfactory proof of the services of such notice, or of the publication of such notice, and upon the finding of a jury of inquest, to be called for that purpose, to award their judgment upon said finding, and execution shall issue accordingly.

SEC. 15. Be it further enacted, That if there be two or more suits commenced by attachment against the same person, and several judgments be obtained at the same term, they shall be satisfied pro rata, out of the judgments which may have been obtained against the garnishee or garnishees in any such suits, unless the defendant in such suit or suits have sufficient other property to satisfy the same.

SEC. 16. Be it further enacted, That all writs of attachment shall be made returnable to the next term of the court, having jurisdiction of the same, after the date thereof, and the bond, affidavit and other papers, on which said attachment may have been obtained, shall also be filed in the proper court, on or before the first day of the term, to which said writ of attachment may be returnable.

SEC. 17. Be it further enacted, That whenever a plaintiff in attachment, shall obtain judgment against a defendant or defendants, and after a return upon the *fit/sa*, of "no property found" it shall and may be lawful for him to sue out process of garnishment against any third person, indebted to or having effects of the defendant or defendants, in execution, in his or their hands, and said garnishee shall be required to appear at the next succeeding term of the court, from which the said process shall have issued, and shall make return of his, or their indebtedness in the manner provided for in the tenth section of this act.

SEC. 18. Be it further enacted, That the filing of the declaration and other pleadings, in a suit commenced by attachment, shall be governed by the same rules, which govern the filing of the declaration and other pleadings in ordinary suits at law, and judgment shall be rendered therein as in other cases.

SEC. 19. Be it further enacted, That the court to which attachments shall be returnable, shall always be open for hearing and deciding, on motion for dissolving such attachments.

SEC. 20. Be it further enacted, That all acts in relation to or regulating the mode of proceeding on attachment, in force at the time of the passage of this act be, and the same are hereby repealed.

*Passed Feb. 15, 1833.*

*Approved Feb. 17, 1833.*

[see chap. Cls,  
etc.]

CHAP. 665 [No. 8] AN ACT regulating appeals in certain cases, not heretofore provided for by law.

notice to be given  
on to non-resi-  
dent defendant

mode of carry-  
ing up appeals  
etc.

bond and secu-  
rity to be given  
in certain cases

SEC. 1. Be it enacted by the Governor and Legislative Council of the Territory of Florida, That in all cases wherein any final judgment, order or decree, may be pronounced, or rendered in any of the courts of this territory, from which an appeal or writ of error lies to any other court of this territory, that if the party, defendant in appeal or error, be a nonresident, that notice of such appeal or writ of error may be served upon the attorney or agent, of said party, defendant, or notice of said appeal or writ of error, may be given by publishing the same in such newspaper in this territory, as may have the most general circulation, for thirty days, and the court to which said appeal or writ of error, is had upon satisfactory proof that such notice has been given, shall proceed to hear and determine said cause as if personal service upon the party, had taken place.

SEC. 2. Be it further enacted, That in all cases in which a rule of court, or other summary order, to any of the officers of court and their securities, or deputies is in effect, a judgment for the payment of money or other thing, the party aggrieved may prosecute his, her or their appeal, writ of error, or certiorari, in the following manner, that is to say, if the order has been made in the court of a justice of the peace, an appeal shall lie to the county court, of the county in which the order shall have been made, or to the superior court of the district, the trial upon such appeal being *de novo* on the merits of the cause, and writs of error and certiorari, shall lie from said county or superior courts to said justices courts, & appeals shall be taken and tried in like manner from the county court to the superior court of the district, and writs of error and certiorari, lie from the superior courts to the county courts, respectively, and appeals and writs of error, shall lie to the court of appeals, from the superior courts as in other cases.

SEC. 3. Be it further enacted, That in all such cases, as those described in the second section of this act, heretofore decided in which the order of court has not been finally enforced, the writ of error or certiorari, may be taken within six months after the passage of this act, the party serving out such writ of error or prosecuting such appeal, giving bond and security, to perform the judgment of the court, to which the appeal is taken or in which the writ of error or certiorari is prosecuted.

SEC. 4. Be it further enacted, That in such cases as aforesaid, in which such order shall be in future made, the said parties may proceed as aforesaid, to prosecute their said appeals, writs of error or certiorari, upon giving bond as aforesaid, and taking their appeal within ten days after the adjournment of the court, and their writs of error and certiorari as in other cases provided for by law.

Passed Feb. 16, 1833.

Approved, Feb. 17, 1833.

CHAP. 666 [No. 9.] AN ACT To provide for appeals and writs of error, in [see chap. 618  
Criminal cases. etc.]

Sec. 1. Be it enacted by the Governor and Legislative Council of the Territory of Florida, That in all prosecutions of a criminal character, the defendant or defendants, shall have the benefit of an appeal or writ of error, to the court of appeals of this territory, from all final judgment, and sentences of the courts of this territory.

Appeals and  
writs of error  
allowed in cer-  
tain cases.

Sec. 2. Be it further enacted, That in all cases, except those where capital punishment is to be inflicted, the party prosecuting such appeal or writ of error, shall, to make the same operate as a supersedeas, give bond and security, to be approved by the clerk of the court, conditioned to be forthcoming to answer and abide the said judgment, or sentence if the same shall be affirmed.

When to op-  
erate as super-  
seideas

Sec. 3. Be it further enacted, That in cases where capital punishment, is by the judgment, or sentence of the court, ordered to be inflicted, no security except the person of the defendant shall be taken, and in all such cases, the writ of error or appeal shall operate as a *supersedeas*.

Sec. 4. Be it further enacted, That all appeals and writs of error, under this act, shall be taken and prosecuted, under the same restrictions as to time, as is prescribed in civil cases.

mode of taking  
out and prose-  
cuting appeals  
and writs of er-  
ror.

Sec. 5. Be it further enacted, That in all cases whereby the sentence or judgment, sought to be reversed, the infliction, of corporal punishment is ordered, the court of appeals, shall direct the time at which the sentence shall be enforced, in case the judgment of the court below is affirmed.

court to order  
time, inflicting  
punishment

Sec. 6. Be it further enacted, That if the plaintiff in appeal or error, shall die pending the appeal or writ of error, the same may be prosecuted by his or her personal representatives as in other cases.

Sec. 7. Be it further enacted, That notice of such appeals and writs of error, may be served upon the district attorney, of the district in which the same may be sued out, in the same manner as the like notice is served upon parties to civil actions.

mode of serv-  
ing notice

Passed Feb. 16, 1833.

Rejected Feb. 17, 1833.

Reconsidered and passed by the requisite majority of the Council, February 17th 1833.

CHAP. 667 [No. 10.] AN ACT Regulating damages on bills of exchange. [see chap. 4.]

Sec. 1. Be it enacted by the Governor and Legislative council of the Territory of Florida, That the act "regulating dama- act of Aug. 12  
1822, repealed,  
& damages on

Foreign bills of exchange fixed at 5 per cent. ges on bills of exchange," approved August 12th 1832, be, and the same is hereby repealed. And that damages on foreign protested bills of exchange, shall be at the rate of five per cent.

*Passed Feb. 17, 1833.*

*Approved Feb. 17, 1833.*

[see chap. 365  
640 etc.]

CHAP. 663. [No. 11] AN ACT in addition to an act entitled an act concerning wills, letters testamentary, and letters of administration, and the duties of administrators and guardians, approved Nov. 20, 1828.

compensation  
allowed execu-  
tors and admin-  
istrators.

real estate to  
be considered  
as assets to the  
hands of execu-  
tors for certain  
purposes.

SEC. 1. Be it enacted by the Governor and legislative council of the Territory of Florida, That executors and administrators, shall be allowed all reasonable charges, on account of disbursement for funeral expenses, and in the administration of the estate of the person deceased, and shall also be allowed a fair and just compensation for their services, and also a compensation not exceeding six per cent. on money arising from the sale of personal property, slaves and lands of the deceased.

SEC. 2. Be it further enacted, That real estate shall be considered assets in the hands of executors, or administrators, and after the personal assets are exhausted, may be sold under an order or decree from the judge of the county court or officer discharging the functions of ordinary or judge of probate, such sale always to be made after public notice thereof, to be given in like manner as in sales of real estate upon execution from the superior courts of this territory, and always at public auction, to the highest bidder: Provided however, in every such case, that no sale of real estate shall be made to any greater extent, than shall be necessary to supply the deficiency of personal assets, for the payment of the just and lawful debts of the deceased, nor shall any such sale be ordered without notice for at least four consecutive weeks previously given, in some public newspaper, nearest to the place where such real estate is situated of the intended application, for such order or decree.

judge of county  
court to order  
a sale.

SEC. 3. Be it further enacted, That it may and shall be lawful, when such notice for the judge of the county court, or officer discharging the functions of ordinary or judge of probate, to order and decree a sale in like manner of the real estate of any deceased person, in preference to a sale of his slaves, where it may be necessary for the payment of just and lawful debts or demands against his estate, and when it may be deemed most beneficial to the heirs, legal representatives, or devisees of the estate.

SEC. 4. Be it further enacted, That real estate in the hands of an executor or administrator may and shall be equally liable.

with personal property, to an execution existing upon any judgment against such executor or administrator: Provided, however, that no real estate, of any deceased person shall be taken in execution, unless first directed by the executor or administrator, so long as there remains personal property sufficient, on which such execution may be levied, but the executor or administrator in every case may designate the property or kind or part of property, which shall first be taken in execution, and whether it shall be real or personal, always provided, that the officers levying said execution, shall judge of the sufficiency, and shall take sufficient property if it be found, to satisfy the execution.

in what cases  
real property is  
to be levied on

SEC. 5. Be it further enacted, That in the settlement, and distribution of the estate of deceased persons in this territory, whether the same be of real or personal property, aliens as well as citizens, may take or inherit, and shall be entitled to share and share alike.

settlement and  
distribution of  
the estates of  
deceased per-  
sons.

SEC. 6. Be it further enacted, That aliens may take, receive and hold real estate in this territory, either by purchase or descent.

aliens authori-  
zed to hold re-  
al estate in this  
territory.

Passed Feb. 15th 1833.

Approved Feb. 17th 1833.

CHAP. 669 (No. 12) AN ACT to repeal parts of acts in said act specified

[see chap. 573  
etc.]

SEC. 1. Be it enacted by the Governor and Legislative council of the Territory of Florida, That the three first sections of the act, entitled an act concerning tax collectors, and treasurers of this territory, be and the same are hereby repealed.

three first sec-  
tions repealed.

SEC. 2. Be it further enacted, That the presiding justice of the county court of each and every county in this territory, shall be deemed, held, and recognized as the judge of said county court, respectively, and that the office of said presiding justice, as it now exists, shall not, by this or any previous act of this session, be held or deemed vacated.

presiding jus-  
tice of each co-  
to recognize as  
judge of said  
county.

Passed Feb. 16th 1833.

Approved Feb. 17th 1833.

D

[see chap. 641  
etc.]

CHAP. 670 (No. 13.) AN ACT To repeal an act to provide for the speedy settlement of all arrears due the Territory of Florida, approved February-12th 1832, and for other purposes.

act repealed.

duty of auditor  
and treasurer.

Quarterly re-  
ports to be m'  
to the gov.

D. attorney to  
make reports.

— SEC. 1. Be it enacted by the Governor and Legislative council of the Territory of Florida, That the act entitled an act to provide for the speedy settlement of all arrears due the Territory of Florida, be and the same is hereby repealed.

SEC. 2. Be it further enacted, That it shall be the duty of the auditor and treasurer, to preserve the records and proceedings of the board of commissioners appointed under the act recited in the foregoing section, and to transfer into the books of the treasury all the accounts against individuals, as stated by the commissioners.

SEC. 3. Be it further enacted, That it shall be the duty of the auditor and treasurer, within sixty days after passage thereof to make out and transmit to the district attorneys, of the several districts, copies of the accounts, and balances due by individuals, with instructions to demand the same, and commence suits therefor, or on bonds securing the same, where such exist in all cases, where the demand of the Territory can be recovered, and collected, and that the said auditor and said attorneys, make quarterly reports to the Governor, of the demands put in suit, and the progress of said suits.

SEC. 4. Be it further enacted, That it shall be the duty of the district attorney, in each district, either in person, or by his authorised and sworn deputy, to examine the records and files of the several superior and county courts, in their respective districts, and ascertain, whether any, and what amounts are due from any marshal, clerk, sheriff or other officers, to the territory, and make detailed reports thereof to the auditor. The said examination and report to be made within three months from the passage of this act, and that for each examination and report, the person making the same shall receive the sum of five dollars, from each county.

Passed Feb. 16th 1833.

Approved Feb. 17th 1833.

[see chap. 510  
588 etc.]

Chap. 671. [No. 14.] AN ACT concerning Patrols.

Patrol districts  
to be made by  
the several J.  
P.

SEC. 1. Be it enacted by the Governor and Legislative Council of the Territory of Florida, That it shall be the duty of the several justices of the peace within this Territory to cause their respective districts to be divided into convenient patrol districts which division shall not be altered unless by the justices or a majority of them in said district and in case the said justi-

ees of the peace of any district, within this Territory, shall neglect to perform the duty herein before required by him or them, he or they, shall forfeit and pay the sum of fifty dollars to be recovered before any justice of the peace in said district.

SEC. 2. Be it further enacted, That it shall be the duty of the several justices of the peace in each county in this Territory to cause to be made out a roll for each patrol district, which shall include the names of all free white male inhabitants, above the age of eighteen years, residing within the patrol district; Provided, that nothing herein contained, shall be construed to compel any male inhabitant of any district to perform patrol duty, either in person or by substitute who may have attained the age of forty five years.

SEC. 3. Be it further enacted, That it shall be the duty of the justices of the peace of each and every district to prick off from the roll of each patrol district at his or their discretion any number of persons who shall perform the duty hereinafter prescribed for the term of three months, and to every such patrol, the justice or justices shall appoint some prudent and discreet person as commander, and in case the justice or justices of each district in their respective counties shall fail to prick off such patrol, he, or they, shall forfeit and pay the sum of twenty dollars for every such neglect to be recovered before any other justice of the peace.

SEC. 4. Be it further enacted, That it shall be the duty of every commander of every patrol as often as he may deem it expedient to call out the patrol under his command and to take up all slaves who may be found without the limits of their owners plantation under suspicious circumstances, or at a suspicious distance therefrom, and to correct all such slaves by a moderate whipping, with a switch or cow-skin commonly called a cow-hide, not exceeding thirty nine lashes unless the said slave shall have a ticket or pass from the owner of said slave, or his agent, or overseer or shall have some white person in company authorized to give an account of the business of such slave or slaves, or if any white man shall beat or abuse any slave quietly and peaceably being on his or her masters plantation or found any where without the same, with a lawful ticket or pass, he shall forfeit the sum of twenty dollars, to be recovered by the owner, and to his use by action of debt, besides being liable to the owner in an action of trespass for damages.

SEC. 5. Be it further enacted, That the said patrols in their respective districts are hereby authorized to enter into any disorderly houses, vessels or boats suspected of harbouring, trafficking or dealing with slaves, whether the same be occupied by white persons, free negroes, mulattoes, mustizoes or slaves, and to apprehend and to correct all slaves found there by whipping as herein before directed, and the said patrol are moreover authorized and it is hereby made their duty to give informa-

<sup>a roll to be m'</sup>  
out; persons of  
the age 45 ex-  
empt.

penalty where  
J. P. neglect  
their duty.

commanders of  
patrol required  
to call out their  
patrol for ap-  
prehending etc

Patrols auth-  
orized to enter  
certain places.

tion to the next justice of the peace within their district, of all such white persons, free negroes, mulattoes or misstizees, so found trafficking or dealing with slaves; and the said justice shall upon such information issue his warrant for the apprehension of said offender or offenders to be dealt with according to law, and the said patrols are moreover authorized to detain such produce or other so found: Provided, such detention be authorized by any three persons composing said patrol, by any two householders of the vicinage or by any justice of the peace, until upon enquiry, before a justice of the district it shall be proved to whom the said property belongs, when it shall be given up to the owner or owners by order of the said justice.

commanders of patrol required to keep their patrol in order & penalties for disobedience.

\* [SEC. 6.] *Be it further enacted, That the commander of every patrol, shall have the power to keep the men under his command in good order and demeanor, during their term of service and in case any patrol man shall misbehave himself, or neglect, or disobey the orders of his commander, he shall be subject to a fine of not more than five dollars, to be imposed by any justice of the peace in said district, and to be paid to the county treasurer for county purposes.*

Penalties imposed for improper conduct in commanders.

SEC. 7. Be it further enacted, That if any commander of a patrol detachment, shall act disorderly while on duty, so as to defeat the orderly performance, or execution of the patrol laws, agreeable to the true intent and meaning thereof, he shall be returned by any of the members of his patrol, or other persons competent to give evidence to any justice of the peace in the district, who shall order the said commander, to be brought before him at a time, and placed therein to be stated for trial, and upon sufficient evidence being given, of the charge, such captain or commander of the patrol, shall be fined in the sum of ten dollars, to be recovered and applied as aforesaid, to the use of the county.

all persons between the age of 18 and 45 required to perform duty when called, or employ substitute penalties for refusing to obey.

SEC. 8. Be it further enacted, That it shall be lawful for any person, or persons, hereby declared liable to perform patrol duty, to send any able bodied white man, between the age of eighteen and forty five years, to perform patrol duty for him or them, and if any patrol man shall neglect or refuse to perform the duty required of him, by this act, or procure a substitute to perform the same, without a legal excuse, he shall forfeit and pay a fine of twenty dollars for each and every default, to be recovered as aforesaid, before any justice of the peace of said district, to the use of the county, for county purposes: and in all cases where a substitute is provided, the person employing him, shall be liable for his default.

SEC. 9. Be it further enacted, That each captain or commander of the patrol shall make a return upon oath of the per-

\* The words in italic are omitted by mistake of the Enrolling Clerks of the Council, in the original law, and are supplied by reference to the original engrossed bill, as ordered to be enrolled.

formance of the duties of his office, as commander of such patrol to a justice of the peace of his respective district, under the penalty of a fine of five dollars to be recovered as aforesaid, for the use of the county.

SEC. 10. Be it further enacted, That it shall be lawful for any person or persons, who may be lawfully engaged in dispersing any unlawful assembly of slaves, free negroes, mulattoes, or mustizoes, to enter into all such places, as the said persons may be assembled at, and if resisted they may break open doors gates or windows.

SEC. 11. Be it further enacted, That nothing herein contained, shall be so construed, as to deprive the corporate authorities of any incorporated town or village, of any power heretofore vested in them, to regulate and order out patrols, within the limits of such corporation.

SEC. 12. Be it further enacted, That if any person or persons, shall commence any action against any patrol, or other persons for any trespass by him or them committed, in carrying the provisions of this act into effect, and at the trial thereof, shall fail to recover any damages, he she or they shall be liable, and adjudged to pay to the party so sued treble costs.

SEC. 13. Be it further enacted, That in counties where the justices districts have not been laid out and defined according to law, it shall be the duty of the justices of the peace or any two or more of them to lay out and divide said county into convenient patrol districts, and proceed to organize the same, in the same manner as heretofore prescribed, and in all such justices districts, wherein but one justice of the peace resides, he shall perform the same duties, as are required by this act.

SEC. 14. Be it further enacted, That if there be no justice of the peace in any district, then and in that case, the justice or justices of the peace of the next adjoining districts in said county, shall perform the duties herein required of justices of the peace.

SEC. 15. Be it further enacted, That it shall be lawful for any patrol of this Territory, to take from any slave or slaves any fire arms, or other dangerous weapons, to be delivered by said patrol to the justice of the peace of said district.

SEC. 16. Be it further enacted, That any fire arms, or other articles so taken by the patrol, shall be delivered over to the nearest justice of the peace; and unless the same be called for within thirty days by the owner thereof or his agent they may be sold at auction on some public day, and at some public place, and the proceeds shall by said justice of the peace be paid into the county treasury for county purposes; Provided, Ten days notice of such sale be given by one or more advertisements stuek up in some public place in the district.

SEC. 17. Be it further enacted, That it shall not be lawful for any slave, free negro, or mulatto, to keep or retain in his or

commanders of patrol required to make return to J. P. under a penalty \$5

Patrol authorized to enter forcibly into disorderly places under certain circumstances.

J. P. authorized to lay out patrol districts

Disposition to be made of weapons.

slaves, free negroes and mulattoes forbidden to keep fire arms in their houses etc

all other laws repealed.

their house or houses, any fire arms whatsoever, and it is hereby made the duty of the patrol to search negro houses or other suspected places, for fire arms, and if any they find, contrary to the true intent and meaning of this act, may take the same to the nearest justice of the peace, who may proceed therewith as directd in a preceding section of this act, ; and the negro, or negroes, in whose possession the same may be found, on failing to give a plain and satisfactory account of the manner he or they came possessed of the same may be severally punished, by moderate whipping on the bare back, not exceeding thirty-nine lashes.

SEC. 18. Be it further enacted, That all laws now in force in this Territory, on the subject of patrols, be and the same are hereby repealed, and this act shall be in force from and after the first day of March next.

Passed Jan. 24. 1833.

Approved Feb. 17. 1833.

{see chap. 457  
§44, etc.]

CHAP. 672 (No. 15.) AN ACT concerning executions.

writs of fieri facias, issuable within ten days after judgment.

SEC. 1. Be it enacted by the Governor and Legislative council of the Territory of Florida, That it shall be the duty of the clerks of courts in this territory, to issue writs of *fieri facias* upon all judgments rendered by the courts of which they are clerks, respectively at any time ten days after the adjournment of said court, and not before, unless the plaintiff, his agent or attorney, shall make affidavit that there is good reason to believe that the defendant will remove his property from this territory, before the same can be levied upon in the usual manner, in which case, it shall be lawful for the court, to order the issuing of the said writ of *fieri facias* immediately after judgment rendered ; and all writs of execution shall bear date as of the day on which they shall be issued ; and shall be made returnable one hundred and twenty days after the date thereof, or at the next succeeding term of the court whence the execution issued, if that be within a shorter time, than one hundred and twenty days, and shall be directed to all and every the marshals, or sheriffs, as the case may be, of the territory of Florida, and shall be of full force throughout the territory.

other property may be surrendered

SEC. 2. Be it further enacted, That the defendant in execution, his agent or attorney, shall at all times have it in his power to release any property which may have been levied on, by surrendering other property, of a value sufficient to satisfy the execution.

SEC. 3. Be it further enacted, That no sale under execution, shall take place unless the same shall have been previously ad-

verfised at least thirty days, at the doer of the court house or the county where such sale is to be made, and at three or more other public places in said county, or unless notice thereof shall have been given, for the said space of thirty days, in some news paper printed in said county, and all such sales shall take place at the door of the court house of the county in which said property is situate or found.

notices of sale  
of property un-  
der execution  
to be given 30  
days previous  
to sale.

SEC. 4. Be it further enacted, That after levy, the defendant shall at all times, have it in his power to replevy the property levied on, by giving bond payable to the plaintiff in double the amount of the execution with security, to be approved by the marshal, sheriff or constable, conditioned for the forthcoming of the property, on the day of sale, and if the said property be not delivered on the day of sale, it shall be the duty of the marshal, sheriff, or constable, to certify the same, to the clerk of the court, or justice of the peace (as the case may be,) upon the back of said bond, and thereupon it shall be the duty of such clerk or justice of the peace (as the case may be,) to issue a *fieri facias*, for the amount due against the defendant and his securities; and in this case no replevy shall be allowed.

power of reple-  
vy given to  
defendant on  
giving bond &  
security.

SEC. 5. Be it further enacted, That whenever a tract of land shall have been levied upon, it shall be the duty of the officers selling the same to ascertain the amount of the judgment, and costs for which the same is to be sold, and to give public notice thereof to the Lystanders; whereupon if any person offer to pay the amount of such judgment and costs, and receive a less number of acres than the whole tract, it shall be lawful for said officers to cry the proposal so made as aforesaid, and if any other person propose to take a still less number of acres, the said officer shall in like manner, receive the bid or proposal, of such other person, and so on, until such part of said land as it may be necessary to sell, shall have been sold, but if no person on the day of sale, propose in manner aforesaid, to take a less number of acres than the whole tract levied on, then such tract, shall be sold, and struck off to the highest bidder thereof.

mode of sale  
under execu-  
tion.

SEC. 6. Be it further enacted, That whenever a sale shall be made by virtue of any execution of lands or tenements, or slaves, the marshal, sheriff, or other officer, shall, on payment of the purchase money, execute to the purchaser, a deed of conveyance or bill of sale of the same, and when the property sold, shall bring more than the amount of the execution, the surplus shall without delay be paid over to the defendant.

after sale the  
surplus money  
to be paid over

SEC. 7. Be it further enacted, That if the marshal or sheriff, shall fail or refuse to pay over money by him collected, within twenty days after the same shall have been by him received, upon demand made by the plaintiff, or his attorney of record, he shall be liable to pay the same and twenty per cent. damages, to be recovered by motion in court: Provided, ten days previous notice be given him, of the intention of the person claiming the money to make such motion.

Marshal's and  
Sheriff's to pay  
over money  
within 20 days

**Officers made liable for making false return of "nopropterea" found."** SEC. 8. Be it further enacted. That it shall be competent for the plaintiff in execution, when the return thereon is "no property found," to controvert said return by tendering an issue in these words, "the plaintiff saith that while the said execution was in force, there was property of the defendant, which was subject to said execution, and which might have been levied on, upon ten days notice of such issue being given to the officers, by whom said writ was returned, the court shall direct the same to be tried by a jury. If the verdict of the jury be for the plaintiff, judgment shall be entered against such officer for the amount of the value of the property which might have been levied on.

**duties of the officer where property levied on is claimed by other persons.** SEC. 9. Be it further enacted, That when any marshal, sheriff or other officer, shall levy on goods and chattels, claimed by any other person, than the defendant, such person may make oath that said property belongs to him, and it shall be the duty of the officer to postpone any further proceeding under said levy, until the right of property shall have been tried: Provided, the person claiming such goods and chattels, shall give bond with security, to be approved by the marshal, sheriff, or other officer levying the execution, payable to the plaintiff, in a penal sum, of double the amount of the sum for which execution issued, conditioned to deliver said goods and chattels, upon demand of said officer, if the same shall be adjudged, to be the property of the defendant in execution, and to pay the plaintiff all damages, which the jury, on the trial of the right of property, may find in his favor, if it should appear to the jury that such claim was interposed for the purpose of delay.

**officers to make return of such claim; to be tried by a jury** SEC. 10. Be it further enacted, That when an execution has been levied, and a claim to the property interposed as aforesaid, it shall be the duty of the officer to return said execution to the next term of the court whence it issued, together with such affidavit and bond; at which term a jury shall be sworn to try the right of property, and also to give to the plaintiff such damages not exceeding twenty per cent, as may appear reasonable and right, in case of its appearing to the jury that such claim was interposed for delay; and the court shall give judgment for the amount of damages so found.

**officers authorized to make re-levy.** SEC. 11. Be it further enacted, That when a claim to property, has been interposed as aforesaid, it shall be competent for the plaintiff in execution to dismiss the levy, and to order a new levy to be made on other property of the defendant.

**house-keepers with families authorized to have the value of \$100.** SEC. 12. Be it further enacted, That every actual house keeper with a family, shall have exempt from execution, attachment, or distress, such portion of his property, as may be necessary for the support of his family, exclusive of wearing apparel, and necessary bedding: Provided, the same shall in no case exceed the value of one hundred dollars, and provided also, the defendant shall make affidavit, to be returned with the execution,

that he has made a fair, full, and complete statement of all his property, in trust or otherwise, and all moneys, and all debts, and demands due to him or to become due, a list of which property and debts, shall also accompany said return.

SEC. 13. Be it further enacted, That when an exemption is claimed under the foregoing section of this act, the officer having such execution shall summon three disinterested persons, who shall be sworn truly to value the property of the defendant in execution, and their valuation shall be conclusive.

SEC. 14. Be it further enacted, That justices of the peace shall issue executions on all judgments rendered by them at any time four days after said judgment, unless affidavit be made as provided in the first section of this act, and all executions from justices courts, shall be directed to any constable of the county, and shall be made returnable within thirty days, and the said constable shall not be required to give more than fifteen days notice of sale under execution, which notice shall be by written advertisement, posted in three public places in the said justices district, and all sales made by him shall be made at the usual place of holding courts in such justices districts, and no sooner.

SEC. 15. Be it further enacted, That in all respects, except as is provided in the foregoing section, constables shall have the same powers in levying on and selling property, and shall be subject to the same remedies and responsibilities as are provided in the case of marshals and sheriffs.

SEC. 16. Be it further enacted, That all laws on the subject of executions heretofore passed be, and the same are hereby repealed, and this act shall be in force from and after the first day of April next, except in Monroe county, where its operation shall commence on the first day of May.

SEC. 17. Be it further enacted, That in all cases where an execution issues in accordance with the provisions of this act, and returned by the officer to whom it is directed, of "no property found," it shall and may be lawful for the said officer to serve upon the person or persons named by the plaintiff or attorney, as garnishee or garnishees a notice to appear at the first term of the court, then next ensuing, from which said execution issued, to set forth upon oath, what goods and chattels, rights and credits, money or effects, were in his or their hands, custody, or control, at the time of the service of such notice or since, belonging to the defendant or defendants in execution, and upon the answer so made by the garnishee or garnishees, it shall and may be lawful for said court to give judgment against said garnishee or garnishees for the amount by them confessed, to be due to the said defendant, and execution may issue for the same in favor of the plaintiff, subject to the same stay as provided in cases of garnishees in the attachment law; and when the said garnishee or garnishees shall in his, her or their

The value of  
such property  
so exempt.

duties of J. P.  
and constables

duties of con-  
stable.

All previous  
laws repealed.

answer, made on oath as aforesaid, admit that he she or they had in his, her or their possession at the time of service of such notice, or any goods or chattels, rights credits or effects, belonging to said defendant, such garnishee or garnishees shall be answerable in damages to the plaintiff for the value thereof unless the same be surrendered upon execution against the defendant.

SEC. 18. Be it further enacted, That in all cases where money has been made on execution the receipt of either the plaintiff or his attorney of record shall be a sufficient discharge to the marshal or sheriff thereof.

*Passed Feb. 17. 1833.*

*Approved Feb. 17. 1833.*

receipt for mon-  
pies collected  
by plff. or his  
attorney.

[see chap-664, CHAP. 673. (No. 16) AN ACT amendatory of the several statutes of this  
Territory, concerning executions and attachments.  
672 etc.]

SEC. 1. Be it enacted by the Governor and Legislative council of the Territory of Florida, That from and after the passage of this act, the boats and fowling pieces of persons resident in the Florida Keys, shall be, and are hereby exempted from any and every attachment, distress or execution, except for fines for a violation of the criminal laws of this territory; any law to the contrary, notwithstanding: Provided, however that it shall be satisfactorily shewn to the court, whence such attachment, distress or execution issued, that such fowling piece or boat is necessary to the actual support, and maintainance of the person claiming the same, and *bona fide* its owner, and provided also, that not more than one boat and one fowling piece, be so exempted upon the exhibit of claim of any one person and provided also, that the value of such boat and fowling piece do not exceed one hundred dollars.

SEC. 2. And be it further enacted, That the boats of all fishermen resident in said territory, and of pilots in the different parts of Florida, be and they are hereby declared to be in like manner exempted, as provided in the foregoing section.

*Passed Feb. 15th 1833.*

*Approved Feb. 17th 1833.*

boats and fowl-  
ing pieces of  
persons resi-  
dent on the  
Flor. Keys'

such boats and  
fowling to be  
shown to be  
court.

Boats of fisher-  
men resident  
in the territory  
and of pilots  
exempted in  
the manner.

Chap 674. [No. 17.] AN ACT supplemental to an act concerning limitations of actions passed November 4th 1828. [see chap. 331, etc.]

SEC. 1. Be it enacted, by the Governor and Legislative council of the Territory of Florida, That in all suits now pending, or that may be hereafter instituted in the courts of this Territory upon any cause of action, originating in any foreign state or place, any law or statute of limitation of such foreign state or place may be pleaded: Provided however, That such plea shall in no case be adjudged sufficient, unless it shall be made to appear before the court wherein it is pleaded, that such law or statute of limitations, had completely run upon and barred the action in such foreign state or place, before the defendant had ceased to be a resident thereof, and had removed therefrom.

*Passed Feb. 16. 1833.*

*Approved Feb. 17. 1833.*

laws or statutes of limitations of foreign states may be pleaded in certain cases.

Chap 675. [No. 18.] AN ACT to provide for holding an election for Delegate to Congress from this Territory members to the Legislative Council, and certain other officers. [see chap. 387; 388 470, 483]

SEC. 1. Be it enacted by the Governor and Legislative Council of the Territory of Florida, That an election for Delegate to Congress shall be held in the several counties in this territory on the first Monday in May, eighteen hundred and thirty-three, and a like election shall take place every second year thereafter on the first Monday of May thereof.

time of holding election for delegate to Congress.

SEC. 2. Be it further enacted, That an election for members to the legislative council of the Territory of Florida, shall be held in the several counties in this territory on the first Monday of November eighteen hundred and thirty-three, and a like election shall be held immediately thereafter on the first Monday of November thereof.

Members of the legislative council.

SEC. 3. Be it further enacted, That an election shall also be held in the several counties of this territory, for clerks of county courts, sheriffs, coroners, and county surveyors on the first Monday in February eighteen hundred and thirty-four, and a like election shall be held every two years thereafter, on the first Monday of February thereof.

clerks C. C. & other officers.

SEC. 4. Be it further enacted, That the presiding justices or judges of the county courts within the several counties be, and they are hereby authorized and directed, at least thirty days before any election directed by this act, to appoint such places for the same, as the presiding justices or judges may judge best, suited to the convenience of the citizens and for the judge of the county or presiding justices to appoint the place of holding elections.

each place so designated they shall appoint three inspectors of elections, any two of whom may be competent to discharge the duties; and in case either of the presiding justices or judges, shall fail to appoint or designate the said place or inspectors, it shall be the duty of the clerk of the county court to make such designation and appointments at least twenty days before the day of election and in either case due, notice thereof shall be given to the inspectors of the election, and to the public at large, by advertising the same at each place so appointed.

Officers not  
complying with  
preceding sec-  
tions of this act

SEC. 5. Be it further enacted, That if in any county in this territory, the place or places of holding any election, shall not be designated, as directed in the 4th section of this act, then in every such case the election in such county, shall be helden at the place or places at which the election next previously thereto was helden in such county, it is also provided, that if the inspectors as in said 4th section is directed, should not be appointed, or being appointed should not attend at any place of election, then in every such case, the electors or a majority of them meeting at any such place, may on the day of election appoint inspectors to hold the same, who, on such appointment may and shall hold the election and proceed in the same manner in every respect as if they had been appointed by the presiding justice, judge, or clerk of their county, provided however, that if such inspectors connot open the polls at nine o'clock in the morning, they may open them at a later time on said day.

oath to be ta-  
ken by inpec-  
tors and clerks

SEC. 6. Be it further enacted, That before any votes are received, the inspectors shall appoint a clerk, and the said inspector and clerk, shall severally take an oath, or affirmation in the following words, to wit; I. A. B. do solemnly swear or affirm (as the case may be) that I will perform the duties of inspector of the election according to law, and to the best of my abilities, and that I will studiously endeavour to prevent fraud, deceit, and abuses, in conducting, the same; which oath or affirmation shall be administered by a judge or justice of the peace at the opening of the polls, but if no judge or justice of the peace be present, the inspectors of the election are hereby authorised, and empowered to administer the oath to each other and to the clerk.

votes to be giv-  
en by ballot.

SEC. 7. Be it further enacted, That the votes shall be given by ballot at the time and place of holding the election, and the polls shall be opened at nine o'clock in the morning and close at five in the evening; and it shall not be lawful for any vote or votes to be counted until the polls are closed, when they shall be openly counted, and declared by the inspectors.

improper bal-  
lots not to be  
counted.

SEC. 8. Be it further enacted, That when two or more ballots are put into the box folded as one ballot, neither of the ballots so folded together shall be counted; and when any ballot contains more names than the number of candidates to be elected, the ballot containing such names shall not be counted.

SEC. 9. And be it further enacted, That it shall be the duty of the clerk under the direction of the inspectors, to provide a poll book in which the names of all the voters shall be registered, as they hand their ballots to the inspectors, whose duty it shall be to receive them and declare in an audible voice to the clerk the name of the voter, after which if his vote be lawful, it shall be deposited in a ballot box, to be prepared by the inspectors of the election, and after the polls are closed, and the ballots counted, to set down under the name of each individual who shall be voted for, at such poll, the number of votes he has received, after which it shall be the duty of the inspectors, and clerk to sign said poll book and deposit the same in the office of the clerk of the county court of said county within twenty days after the said election.

polls books to  
kept by the  
clerks of elec-  
tion.

SEC. 10. And be it further enacted, That the following shall be the form of the poll book, first the name of the county, and of the poll shall be written at the head of the book, the day of the month, date of the year; second the names of the voters, the names of the different candidates, and at the close of the book, shall be entered the number of votes, each has received.

Form of poll  
book.

SEC. 11. And be it further enacted, That within ten days after the election, the inspectors of the same shall enclose, and seal up under cover of sufficient envelope, the certificate and return of said election, and forward the same to the Governor of this Territory by the first mail thereafter.

certificate and  
returns of elec-  
tion to be for-  
warded to the  
gov. within 10  
days.

SEC. 12. Be it further enacted, That the following shall be the form of the certificate, which shall make the return complete; "We the subscribers, inspectors of an election, for held at in the county of do hereby certify that at the said election held at the aforementioned place on the day of A. D 183, A. B. and C. were candidates and that there were given for A. the number votes, for B. the number of votes, and for C. the number of votes, test, signed D. C. }

form of certifi-  
cate.

Inspectors.

J. R. Clerk.

R. S. }

SEC. 13. Be it further enacted, That it shall be the duty of the Governor or person exercising the government for the time being within three months after the time appointed for holding an election for Delegate to Congress, to cast up and arrange the votes for the several counties, or such of them as may have been returned, for each person voted for as delegate to congress, and shall immediately thereafter issue his proclamation, declaring the person having the highest number of votes, to be duly elected, to represent this territory, in the Congress of the United States, and to grant a certificate thereof under the seal of the Territory, to the person so elected.

duty of the gov  
ernor.

SEC. 14. Be it further enacted, That whenever two or more persons have an equal number of votes for delegate to con-

**a new election  
to be ordered  
by the gov in  
certain cases.**

**! Proclamation  
of election.**

**contested elec-  
tion to be deci-  
ded by L.**

**Commissioners  
of clerks C C.  
sheriffs, coro-  
ners & county  
surveyors.**

**proviso in case  
of a tie.**

**new election to  
be ordered by  
the judge of the  
county in case  
of vacancy.**

gress, and whenever a vacancy shall occur by death, resignation, or otherwise, it shall be the duty of the Governor to issue his proclamation to the several presiding justices or judges of the county courts within this territory, to cause an other election to be held, conformably to the provisions of this act; and on such day as the Governor shall appoint.

**SEC. 15.** Be it further enacted, That it shall be the duty of the Governor within thirty days after any election, for members to the Legislative Council, to proclaim in the most public paper in Tallahassee, the person or persons, who are duly elected in each county.

**SEC. 16.** Be it further enacted, That the proclamation so made shall be considered *prima facie* evidence of the election of the person or persons so proclaimed; that in all cases of a contested election, or other questions of qualifications, the Legislative Council shall determine the same.

**SEC. 17.** Be it further enacted, That it shall be the duty of the Governor on the receipt of the returns of any election for the clerk of the county court, sheriff, coroner, or county surveyor, to compare the said returns and within three weeks thereafter, to make out commissions for the persons having the greatest number of votes, for the several offices for which they have been elected, and transmit the same to the presiding justice of the county, to which they severally belong; and it shall be the duty of the presiding justice, or judge of such county, before delivering any of said commissions, to take bond and approved security for the faithful discharge of their several duties, and immediately transmit said bonds to the Governor of this territory: Provided however, that should any two candidates for the same office, have an equal number of votes, the Governor shall notify the presiding justice or judge of such county thereof, who shall forthwith proceed to give ten days notice throughout his county, for holding a new election in the same manner as hereinbefore directed, and the said election shall be conducted, and return thereof made to the Governor in the same manner as hereinbefore directed, who shall send a commission to the person then having the highest number of votes.

**SEC. 18.** And be it further enacted, That in all cases of vacancy in any of the aforesaid offices of clerk of the county court, sheriff, coroner or county surveyor, occasioned by death, resignation, or otherwise, upon information thereof being given to the presiding justice or judge of the county in which such vacancy may occur, he shall on giving ten days public notice thereof, cause a new election to be held, to fill such vacancy under the same rules and regulations in all respects, as are prescribed in this act, for holding any regular election, and the person so elected shall be commissioned to serve for the balance of the term for which his immediate predecessor was commissioned.

Sec. 19. And be it further enacted, That all white male inhabitants, citizens of the United States, above the age of twenty-one years, who have resided in the Territory of Florida, for the space of three months, immediately preceding the day of election, and all white male inhabitants of the territory, above the age of twenty one years, who were in the territory at its cession to the United States, on the eleventh of July eighteen hundred and twenty-one, and who have resided in the territory, three months immediately preceding the day of election, shall be entitled to vote at any of the elections hereinbefore mentioned.

qualification of voters.

Sec. 20. And be it further enacted, That when objections shall be made to a person offering to vote, and in all other cases where the qualifications of persons offering to vote, are unknown to either of the inspectors, they shall have power to examine such person on oath, or affirmation, touching his qualifications as a voter, agreeable to the qualifications in the preceding section, which oath or affirmation, either of the inspectors of election, is hereby authorised to administer, and such person may further be required to declare on oath or affirmation, that he has not already voted, at any other place of election, or has not been refused for want of due qualifications as a voter.

Duties of inspectors.

Sec. 21. And be it further enacted, That if any inspector of elections, or clerk concerned in conducting the same, shall neglect or improperly delay, or refuse to perform any of the duties or services of him or them required by this act, having undertaken so to do, or shall knowingly admit any person to vote, not qualified according to law, or shall be guilty of corruption, partiality or other misbehaviour in any matter, or thing appertaining to said elections, or shall knowingly make a false return of votes given, he or they, so offending, shall on conviction, forfeit and pay each to the territory, a sum not exceeding two hundred dollars, nor less than fifty dollars, to be recovered in any court of record, in the name and for the use of the territory, in an action of debt, with costs of suit at the suits of any person who may sue for the same, one half to the use of the territory, and the other half to the use of the person suing.

Penalties for improper conduct.

Sec. 22. And be it further enacted, That if any candidate choose to contest the right of any person proclaimed to be duly elected, to hold his seat in the house of representatives of the United States, such person shall give notice thereof in writing to the person whose election he intends to contest, or shall leave a notice thereof at the house where such person last resided, within fifty days after the Governor's Proclamation, notifying the result of the election, in which notice shall be expressed the points on which the same will be contested, and the names of the justices of the peace, who will attend the taking of the depositions and when and where they will attend to take the same: Provided, that the time fixed upon for taking such depositions shall not exceed four months from the day of election, and the

time & manner of contesting election of delegate.

said justices shall have power, and they are hereby authorised to issue subpœnas to all persons whose testimony may be required by either of the parties, commanding such person to appear and give evidence at the time and place therein mentioned, under the penalty of fifty dollars, except for justifiable cause, to be levied upon each and every delinquent, who hath been duly served with process, and the said justices shall hear and testify under seal, all testimony relative to such contested election, to the speaker of the house of representatives of the United States: Provided, nevertheless, that no testimony shall be received which does not relate to the points expressed in the notice, a copy of which notice, attested by the person who delivered or served the same, shall be delivered to the said justices.

**SEC. 23.** And be it further enacted, That any person intending to contest said election, of one returned to serve as a member of the Legislative council, such person shall, within thirty days after the election, give to the person returned, and whose election he shall intend to contest, a written notice stating the particular grounds upon which the same will be contested, and the name of the justice of the peace or notary public, before whom the depositions will be taken; and also give the party reasonable notice of the time and place of taking such depositions: Provided, that no deposition shall be taken after the second Monday of the session of the Legislative Council, and the said justice or notary public, shall issue his subpœnas for such persons as may be required by either of the parties, to give testimony, and any person refusing to appear and give testimony, when subpœned for that purpose, shall be fined by the magistrate or notary public, issuing such subpœna, in the sum of fifty dollars, except for justifiable cause, and execution may issue thereafter; and the said justice or notary public shall take all testimony relative to such contested election, and shall seal up and transmit the same to the president of the legislative council.

contesting election of members of the council.

contesting election of clerks of county court, sheriffs coroners and county surveyors.

**SEC. 24.** And be it further enacted, That any person who may intend to contest the election of one returned to be commissioned as clerk of the county court, sheriff, coroner, or county surveyor, shall within ten days after the election, give to the person returned, and whose election he shall intend to contest, a written notice stating the particular grounds upon which the same will be contested, and the name of the justice of the peace, or notary public, before whom the depositions will be taken; and shall give to the person whose election he may intend to contest, at least four days notice of the time and place of taking such depositions: Provided, that no depositions shall be taken after a longer period than three weeks after the day of election, and the said justice or notary public, shall issue his subpœna, for such person or persons as may be required by either of the parties, to give testimony, and any person refusing to appear and give testimony, when subpœned for that

purpose, shall be fined by the justice or notary public, issuing such subpoena, in the sum of twenty dollars, (except for justifiable cause) and execution may issue thereon, and the said justice or notary public, shall take all testimony relative to such contested election, and shall seal up and transmit the same to the Governor of this territory, whose decision thereon shall be final.

SEC. 25. Be it further enacted, That if any person shall vote contrary to the provisions of this act, or who shall vote twice at the same election; he shall be liable to indictment as for a misdemeanor, and on conviction shall be punished by a fine not exceeding two hundred dollars, and by imprisonment, for a time not exceeding six months at the discretion of a jury.

Passed Feb. 13. 1833.

Approved Feb. 17. 1833.

persons voting  
contrary to the  
provisions of  
this act etc.

CHAP. 676 [No. 19] AN ACT relating to fees.

[see chap. 355,  
371, 372, .75,  
434, 435, 620]  
Act 1828 re-  
pealed,  
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SEC. 1. Be it enacted by the Governor and Legislative council of the Territory of Florida, That the act to determine the fees of certain officers in this territory, and for other purposes passed November 22d 1828, be and the same is hereby revived.

SEC. 2. And be it further enacted, That all acts and parts of acts, passed subsequent to said act, in the preceding section mentioned, regulating fees, except the act prohibiting clerks of county courts, from pay for extra services, be and the same are hereby repealed.

SEC. 3. And be it further enacted, That the eighth section of the act regulating the fees of certain officers, approved February the 10th 1832, be and the same is hereby declared not to have been in force, and all just and lawful accounts of the officers of this territory, for services rendered, shall be settled and adjusted, without any reference to said eighth section.

eighth section  
of act Feb 10,  
1832, not in  
force.

SEC. 4. Be it further enacted, That judges or presiding justices, of county courts shall be allowed for each order at chambers, seventy-five cents, and for each order in termtime, thirty seven and a half cents.

fees of Judges  
of the county  
court.

SEC. 5. And be it further enacted, That port wardens, shall receive for the first visit, to examine and survey the hatches of a vessel, three dollars: for first visit to survey, three dollars: every other visit to examine vessel or goods, two dollars, attending and directing sales at auction per day, five dollars; every certificate, two dollars; attending a survey out of the city or town, in addition to the regular fees, ~~and a conveyance~~

fees of warden  
not allowed on  
less called upon

furnished, per day, three dollars ; Provided, they shall in no case be allowed to charge fees, unless specially called on.

*Passed Feb. 17, 1833.*

*Approved Feb. 17, 1833.*

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**CHAP. 677 [No. 20.] AN ACT concerning the Commissioner of the Tallahassee Fund.**

**SEC. 1.** Be it enacted by the Governor and Legislative council of the Territory of Florida, That the commissioner of the Tallahassee Fund, shall hereafter receive the sum of two hundred dollars annually, in full for all his services.

**PASSED** Feb. 15, 1833.

**APPROVED** Feb. 17, 1833.

{ see chap. 381,  
382, 435, 460,  
etc.]

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**CHAP. 678 [No 21] AN ACT To establish county courts, and prescribe their jurisdiction.**

duties and pow-  
ers of Judges  
of county courts

**SEC. 1.** Be it enacted by the Governor and Legislative council of the Territory of Florida, That there shall be organised in each of the counties of this territory, a county court, to be holden by one judge, who shall be appointed by the Governor and Legislative council, and shall hold his office for the term of four years, the judges of the county courts respectively shall possess and exercise all the powers, and perform all the duties of justices of the peace, within the limits of their several counties ; but they shall have no jurisdiction, as justices for the trial of civil cases, every such judge before he enters upon the duties of his office shall take an oath faithfully and impartially, to discharge the same, and to support the constitution of the United States.

C'ty. C to be  
courts of record  
extent of juris-  
diction.

**SEC. 2.** Be it further enacted, That the county courts thus established, shall be courts of record, and shall within their respective counties, have and exercise original jurisdiction over all cases where the sum, debt, damages, or matters in demand, or controversy, shall be above fifty and not above one thousand dollars, and also over all cases where the sum, or matter in demand, or the value of the thing in controversy, is not above fifty dollars : Provided in every such case, that jurisdiction over the same has not been given to any other court or courts of this territory ; and also over all cases where the sum, debt, damages,

matter in demand, or controversy, is above fifty dollars, where a judge of a superior court within his own judicial district, is a party plaintiff or defendant, or where such judge cannot for any cause take cognizance of the suit, and appellate jurisdiction over the judgments of any justice of the peace, the case on every such appeal to be tried *anew* upon its merits, but without requiring written pleadings, but no appeal from any justices court, shall be allowed, when the sum in demand or controversy, does not exceed ten dollars, except for matters of law apparent of record; and in every such case the trial in the county court shall be upon, and by inspection of the record. And writs of error, certiorari, mandamus, and prohibition shall issue from the county to any justices court, which shall be tested by the judge awarding the same.

SEC. 3. Be it further enacted, That appeals from any county court, shall be taken to the superior court, holden in and for the same county; and writs of error, and certiorari, mandamus, prohibition, and injunction, shall issue from the superior court to the county courts, which shall be obeyed by said county courts, respectively.

SEC. 4. Be it further enacted, That the said courts shall have no criminal jurisdiction, except in cases not capital, where the judge of the superior court of the district cannot, for any cause, take cognizance of the same, then in every such case, it shall be the duty of the prosecuting attorney, to give notice thereof to the judge of the county court, of the county in which such case originated, whose duty it shall be thereupon, to cause a *venire facias* to be issued, returnable to the next term of the said court, to be holden at least twenty days after such notice, and a grand and petit jury to be summoned for that special purpose, in like manner as such juries are summoned in the superior court. And the decision of the said county court, in every such case, shall be final. It is also provided, in case any suit shall be instituted, in any county court, in which the judge of the superior court of the district, in which such county court is holden, shall be a party plaintiff or defendant, either party may appeal from the judgment of such county court, or take the case by writ of error, directly to the court of appeals in the same manner, upon the same conditions, and subject to the same restrictions, and limitations as are provided in case of appeals from, or writs of error to the superior courts of this territory. It is also further provided, in case any suit shall be instituted in any county court, in which the judge thereof is a party, or of which for any cause such judge cannot take cognizance, then in every such case the clerk of said court, on request of either party shall transfer the same, and all papers appertaining to it, without delay to the clerks office of the superior court holden in and for the same county, the party requesting such transfer first paying the legal costs to which such clerk of the county

appeals from c. court to be ta-  
keu to superior court.

when c. courts  
may have juris-  
diction in cases  
involving capi-  
tal punishment.

court may be entitled in said suit; or such suit may at any time be taken from the county court into such superior court by writ of certiorari, issued by the clerk of said superior court according to law.

SEC. 5. Be it further enacted, That the said county courts shall hold two terms in each year, in each and every county, at such times and places as now are, or hereafter may be established by law. That it shall be the duty of each and every justice of the peace, within this territory, to attend the county courts of his county, at the first term thereof, in each and every year, for the purpose of transacting county business; any two of whom with the judge of said court, or if the said judge from any cause should not attend said court, any three of whom shall constitute the necessary quorum for the transaction of county business; and in any county in this territory, where the times of holding the several terms of the county court thereof as provided for in this act, are not fixed and appointed by law, the said county court when in session, for the transaction of county business, may fix and appoint them.

SEC. 6. Be it further enacted, That the said county courts being in session for the transaction of county business, as directed in the next preceding section of this act shall have power, by any agent, by said courts appointed for that purpose, to sue for and prohibit, from trespass any lands that may belong to their counties respectively, and may sell and dispose of the same, for the use of their respective counties, in such manner as said courts may deem best. The said courts thus in session shall and may take cognizance of all matters relating to the opening and keeping in repair of roads within their respective counties, appointing overseers and surveyors, of said roads, establishing ferries, and erecting and keeping in repair, bridges and causeways, and granting writs of ad quod damnum, for the erection of mills and other water works, for establishing and regulating patrols when necessary, and for the maintainance and support of the poor, and infirm of their respective counties, and shall have power to levy and collect a poll and other tax for the said purposes: Provided that whenever it shall be deemed necessary by any county court, to levy any other than a poll tax, it shall be the duty of such court to establish the average value of slaves in the said county, and no greater tax shall be levied on other property, than is or shall be proportioned to the tax levied by the said court, upon slaves in the said county: Provided also, that no county tax shall be levied by the county court of St. Johns county, for the purpose of erecting public buildings of any kind. In opening and repairing roads, personal service alone, shall be required, or a commutation in lieu thereof, at the election of the person whose services are required, not to exceed one dollar per day.

SEC. 7. Be it further enacted, That the county taxes shall

J. P. required  
to attend the 1st  
term in every  
year, for trans-  
acting county  
business.

duties of county  
courts, when  
transacting co-  
business.

So collected in the manner as the Territorial taxes are collected, and by the same persons, and it shall be the duty of the county court of each county, in session for the transaction of county business, to order the tax collector thereof, to give bond to the treasurer of said county, with good and sufficient security, in a sum to be decided and approved by the judge of said county, conditioned for the faithful performance of the duties of his office, and the punctual payment of the amount of taxes by him collected, at such stated times as may be fixed by said county court: and the said county court thus in session, in each county in this Territory, shall appoint a county treasurer, to hold his office for the term of two years, unless sooner removed by the county judge, who, before entering upon the duties of his office, shall execute a bond to be filed in the office of the county clerk, with good and sufficient security, to be approved by said judge, in the penal sum of at least two thousand dollars, or in such larger sum as such court may direct, conditioned for the faithful performance of the duties of his office, and in case the office of treasurer be, or shall become vacant in any county, a treasurer may be appointed by the judge thereof, till the next session thereafter ensuing of the county court, for the transaction of county business.

SEC. 8. Be it further enacted, That the judge of each county court, shall have power either in open court, or in vacation to take the probate of wills, grant and revoke letters testamentary, and letters of administration, appoint and displace guardians of infants, orphans, idiots, lunatics, and persons *non compos mentis*, and to make all necessary orders for issuing of process and notices. That letters testamentary, or of administration, so granted by the said judge, shall be issued by the clerk, and bear test in the name of said judge. That the said judge shall also have power to order sale and distribution, in all cases according to laws of estates, testate, or intestate, and shall have and exercise general powers as a judge of probate, and in the absence of the judge of the superior court, from any county in this Territory, the judge of the county court shall have full power to make all such orders and interlocutory decrees in all cases in chancery, pending or to be instituted in the superior courts, as said judge of the county courts may deem necessary and proper, and the papers therein shall be immediately returned to the said superior court, to be proceeded upon by said superior court, as if such order or interlocutory decrees had been made by such superior court.

SEC. 9. Be it further enacted, That upon probate of any will, or granting letters of administration, or upon any cause in the said county court, the party applying to the court, shall pay to the judge thereof three dollars for his fee, in every cause, to be paid at, or before any decision thereon, which sum in case of recovery, and execution shall be taken as a part of the costs,

collectors of c. taxes to give bond and seen  
rity.

powers confe-  
red on the J's.  
county court.

fees granted to  
the judge in  
certain cases.

or in case of probate of any will, or granting letters of administration, shall be allowed to any executor or administrator, paying the same in his settlement of the estate.

SEC. 10. Be it further enacted, That there shall be appointed, in each justices district, in each county, one constable, or more, if the county court, in session for the transaction of county business, shall deem it necessary; every such constable to be appointed by such county court, to hold his office for the term of two years, unless sooner removed by the said court, or in vacation, by the judge thereof, to take and subscribe an oath, faithfully to perform the duties of his office, and to execute a bond in the penalty of five hundred dollars, under the same regulations, and restrictions, as are prescribed to sheriffs, by the provisions of this act: Provided, that nothing in this section contained, shall prevent any constable from acting in more than one justices district, in the same county: and provided, in case of vacancy in any district, the judge may appoint a constable therein, to continue until the next session thereafter ensuing of the county court, for the transaction of county business.

sheriffs to be  
commissioned  
for each county  
bond and secu-  
rity to be giv-  
en by them:

SEC. 11. Be it further enacted, That there shall be commissioned a sheriff for each county who shall perform all the duties required of him by law, and before entering on the duties of his office, shall take and subscribe an oath faithfully to discharge the duties of his office, and shall execute bond in the penalty of two thousand dollars, with good and sufficient security, to be approved of by the respective judges of the county courts, conditioned for the correct and faithful performance of the duties of his said office, which said bond shall be recorded in the office of the clerk of such court, and filed therein, and said bond shall not be void upon payment of the whole penalty thereof, but shall remain in full force, and the sheriff and securities shall be and continue liable to all persons injured by any violation or nonperformance of the duties of his office. That the county court in each county in this Territory, any two justices being present, shall, from time to time take up the list of jurors, and shall select therefrom not more than three fourths, nor less than one half of the whole number of persons returned as jurors, according to law; which persons so selected shall serve as grand jurors and petit jurors, in the manner pointed out by law, and those persons whose names are rejected by said county court, shall no longer be liable to be placed upon the venire, until a new selection be made.

venire of su-  
perior court to  
be taken from  
jurors so selec-  
ted.

SEC. 12. Be it further enacted, That after every selection so made as aforesaid, the county court shall cause a list to be made out and certified by the clerk of said court, containing the names of all such jurors so selected; which list shall be deposited with the clerk of the superior court for said county, and the venire for said superior court shall be filled up from said list in the manner provided by law

SEC. 13. Be it further enacted, That there shall be commissioned in each county a clerk of the county court, whose duty it shall be, to record all decrees, orders, judgments, and other papers required by law to be recorded, to keep the records and minutes, and preserve the papers appertaining to county business, or to suits, or other matters in said court; and who before entering on the duties of his office, shall take an oath faithfully to perform the duties of the same, and shall execute a bond in the penalty of two thousand dollars, with good and sufficient security, to be approved by the county judge, conditioned for the correct and faithful performance of the duties of his said office, which bond shall be recorded in the office of said clerk, and be filed in the office of the clerk of the superior court, holden in and for said county. The bonds of the several county officers, provided for in this act, shall each and all of them be made payable to the Territory of Florida.

clerks o. court  
appointed; their  
duies, etc.

SEC. 14. Be it further enacted, That the sheriffs and clerks of the several county courts of this Territory, shall hold their respective offices for the term of two years, unless sooner removed by legal authority.

c!k. & sheriffs  
of counties to  
hold office for 2  
years

SEC. 15. Be it further enacted, That the offices of the several clerks of the county courts, shall be offices of original record for deeds, mortgages, wills, and other instruments, required by law to be recorded in their respective counties.

c!k.s. office to  
be of original  
record.

SEC. 16. Be it further enacted, That it shall be the duty of the clerk of each county court, to make out a correct docket of all suits and causes of action, brought in said court, at least five days before the first day of each county court, and deliver the same to the judge thereof, and in case either of the parties, to any suit before said court, or his attorney, shall request it, in writing either before, or during the term of said court, said clerk shall issue a *venire facias* directed to the sheriff, commanding him to summon a sufficient number of qualified jurors to attend the said term of said court; but in no other case shall such *venire facias* be issued except as in this act, is herein before provided.

clerks required  
to make out  
docket to issue  
venire facias.

SEC. 17. Be it further enacted, That whenever there shall not be a sufficient number of jurors so summoned, in attendance, it shall be lawful for the judge to order the sheriff to make up the deficiency from the bystanders; and the jurors in county courts, shall possess the same qualifications, and be liable to the same exceptions as jurors in the superior courts.

sheriff supply  
deficiency of ju-  
rors by sum-  
moning bystanders etc.

SEC. 18. Be it further enacted, That the county courts shall have power to fine and imprison for contempt of their authority: Provided, that the fine for such contempt shall in no case exceed twenty dollars, or the imprisonment twenty-four hours.

county courts  
authorized to  
punish for con-  
tempt.

SEC. 19. Be it further enacted, That cases by appeal and writ of error, shall be taken from the county to the superior court, in the same manner, upon the same conditions, and sub-

mode of taking  
appeals from  
county to super-  
rior court.

ject to the same restrictions, and limitations, as are provided in case of appeals from, or writs of error to the superior courts of this Territory: Provided, that such restrictions or limitations, shall in no case be construed to deprive the party of their appeal or writ of error, by reason of the smallness of the amount in demand or controversy.

SEC. 20. Be it further enacted, That if either party shall desire to remove his case, by writ of error or by appeal, from the judgment of the county court, upon any matter, rule, order, or decision of the court, not otherwise appearing on record, he may, in like manner, as in the superior court, file his bill of exceptions thereto, praying that it be signed sealed, and made a part of the record, and it shall be the duty of the judge, to inspect the said bill, and if it contain a correct and faithful statement of the point, matter or decision, excepted to, the said judge shall sign, seal, and certify the same, and it shall thereupon become a part of the record, and be placed among the files of the case, and if it shall appear to the superior court, that any case brought into it by appeal or writ of error from the county court, was so brought upon pretexts merely frivolous, and for the purpose of delay, then, in every such case, damages may be awarded to the aggrieved party not exceeding ten per centum, on the principal sum found due. No person shall be allowed to withdraw an appeal after it shall have been entered, but by consent of parties.

SEC. 21. Be it further enacted, That should the party neglect to take an appeal within the time allowed by law, he may at any time within two years thereafter, before or after the final execution of the judgment, procure a copy of the record, and if there be error in the proceedings, assign said error, and present it to the judge of the superior court, either in term time, or in vacation, and should the judge be of opinion that injustice has been done, or that there is error in the proceedings, he may award a writ of error to the county court in which the judgment was rendered, which if before the final execution of the judgment, shall be a supersedeas, and suspend further proceedings upon the judgment or execution, until the matter thereof should be heard in the said superior court, the writ of error thus awarded, shall be issued by the clerk of the superior court, and its operations as a supersedeas, shall be obeyed by the clerk and sheriff of the county court respectively, upon notice thereof, which shall be given by the clerk of the superior court, endorsing the writ of error, "supersedeas" A. b. clerk.

SEC. 22. Be it further enacted, That whenever there is an appeal from a justice of the peace, to a county court, and the decision of the justice shall be confirmed, the decision of the county court shall be final, except in cases where a question or questions of law apparent of record, by bill of exception or otherwise are involved. Provided however, that no judge of a

bill of exceptions when approved by the judge be made part of record.

Time for taking appeals limited to 10 years.

when the decision of courts shall be final.

saperior court, or judge of a county court, in this Territory, when a party in a justices court, shall have a right to appeal from the decision of said justice, to his own court.

SEC. 23. Be it further enacted, That an act entitled an act to establish county courts and prescribe their jurisdiction, approved the 18th November 1829, and all provisions, acts or parts of acts, relating to the same subject, inconsistent with the provisions of this act, be and the same are hereby repealed. Repealing clause.

SEC. 24. Be it further enacted, That upon every verdict rendered by a jury in any of the county courts of this Territory, the jury shall be entitled, before the rendition thereof, to receive from the plaintiff three dollars. Fees of jurors.

*Passed Feb. 13th 1833.*

*Approved Feb. 17th 1833.*

CHAP. 679 [No. 22.] AN ACT relating to justices of the peace.

[see chap. 360,  
473, 656, etc.]

SEC. 1, Be it enacted by the Governor and Legislative Council of the Territory of Florida, That such number of justices of the peace as the publick good may require, may be appointed by the Governor and Legislative Council in each county and in each justices district in any county in this territory; and at any time when the Legislative Council shall not be in session, the Governor of this territory, may appoint a justice or justices in any county, or justices district, whenever it shall appear to him that the publick good requires it, but in every such case the appointment shall terminate at the end of the next session of the Legislative Council thereafter, unless at such session the appointment be approved and confirmed by the council according to law. a sufficient No of justices to be appointed.

SEC. 2, Be it further enacted, That upon the trial of any case in the superior or county court appealed from a justice, the testimony of either party shall be admitted if under like circumstances, it might by law be admitted in a justices court.

Admission of testimony in appeals from justices court.

SEC. 3, And be it further enacted, That every jury, that render a verdict in a justices court shall be entitled to receive the fee of one dollar and fifty cents from the plaintiff, to be paid before delivery of the verdict; and to be taxed in the bill of costs in said suit.

Jury fees in justices courts.

SEC. 4, And be it further enacted, That in all cases in justices courts when execution has been issued and returned no property found, the justice may at his discretion, issue execution against the plaintiff for costs due on said execution after demand made.

when execution for costs may be issued.

*Passed Feb. 15. 1833.*

*Approved Feb. 16. 1833.*

See chap. 355 **CHAP 680 [No. 23.] AN ACT** amendatory of the act of November 21<sup>st</sup> 1828 entitled an act regulating judicial proceedings.

the 49th section  
of the act of 21  
Nov. 1828. **SEC. 1.** Be it enacted by the Governor and Legislative Council of the Territory of Florida, That from and after the passage of this act the 49th section of the act, of November 21<sup>st</sup> 1828, entitled an act regulating judicial proceedings be and the same is hereby repealed.

**Passed Feb. 15th 1833.**

**Approved Feb. 16th 1833.**

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**CHAP 681 [No. 24] AN ACT** to change the time of holding the superior courts in the counties of Walton, Washington, Jackson, Fayette, and Franklin.

time of holding superior courts in Walton, Washington, Jackson, Fayette and Franklin. **SEC. 1.** Be it enacted by the Governor and Legislative Council of the Territory of Florida, That the time of holding the superior courts in the foregoing counties shall be as follows; in the county of Walton, on the first Monday in March, and the third Monday in November, in the County of Washington, on the second Monday in March, and on the fourth Monday in November, in the County of Jackson, on the third Monday in March and first Monday after the fourth Monday in November, in the County of Fayette, on the first Monday after the fourth Monday in March, and on the second Monday after the fourth Monday in November, in Franklin, on the second Monday after the fourth Monday in March, and on the third Monday after the fourth Monday in November.

This act to be in force from its passage. **SEC. 2.** Be it further enacted, That this act be in force from, and after its final passage.

return of process above co. regulated. **SEC. 3.** Be it further enacted, That all process returnable or returned to any of the said superior courts shall be considered of the respective terms as herein above directed.

**Passed Jan. 28th 1833.**

**Approved Feb. 2nd 1833.**

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**CHAP. 682 [No. 25] AN ACT** to alter the time of holding the county court of Gadsden County.

Jan. term of Gadsden County. **SEC. 1.** Be it enacted by the Governor and Legislative Council of the Territory of Florida, That the January term of the county court of Gadsden County, shall be held on the

third Monday in January in each and every year, and that any law heretofore passed contrary or inconsistent with the provisions of this act, be and the same is hereby repealed.

*Passed Jan. 24th 1833.*

*Approved Jan. 31st 1833.*

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CHAP. 683 [No. 26] AN ACT to provide for an additional term of the superior court in Hamilton county.

SEC. 1. Be it enacted by the Governor and Legislative Council of the Territory of Florida, That it shall be the duty of the judge of the superior court, for the middle district of Florida, to hold a court on the first Monday in June, in each and every year, in addition to the term held on the first Monday in December, in and for the said county of Hamilton at the county seat of said county.

*Passed Jan. 31st 1833.*

*Approved Feb. 9th 1833.*

additional terms  
of superior co-  
in Hamilton.

CHAP. 684 [No. 27] AN ACT to prescribe the times of holding county courts in the county of Monroe.

SEC. 1. Be it enacted by the Governor and Legislative Council of the Territory of Florida, That from and after the first day of May next, the times for holding county courts in said county of Monroe, shall be the third Mondays of April and October, in each and every year; any law heretofore in force to the contrary notwithstanding.

*Passed Feb. 7th. 1833.*

*Approved, Feb. 11th, 1833.*

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CHAP. 685 [No. 28] AN ACT to fix the times and places for holding the several terms of the superior court of the district of East Florida, for the Counties of Duval, Nassau, Alachua, and Columbia.

SEC. 1. Be it enacted by the Governor and Legislative Council of the Territory of Florida, That the superior court of the district of East Florida, shall commence its term in each, and

superior courts  
in the eastern  
district.

every year at Jacksonville for the county of Duval, on the second Monday in April, and on the first Monday of December: At Newnansville for the counties of Alachua and Columbia; on the last Monday in March, and on the Tuesday next preceding the last Monday in December, and at the county court house of the county of Nassau, for said county on the Wednesday next after the first Monday in April, and on the Wednesday next preceding the first Monday in December.

*return of process to those courts regularized.*

SEC. 2. Be it further enacted, That all process returned, or returnable to, and all suits pending in the superior court, for the several counties above named shall be considered as of the respective terms therein above named.

*Passed, Feb. 5th 1833.*

*Approved, Feb. 9th. 1833.*

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**CHAP 686 [No. 29] AN ACT to establish the eastern boundary line of Jefferson County.**

*eastern boundary line of Jefferson.*

SEC. 1. Be it enacted by the Governor and Legislative Council of the Territory of Florida, That gum swamp shall be the eastern boundary line of Jefferson County, commencing at the Georgia line, thence down said swamp to the little Ocilla, the present boundary line of said county.

*Rep. clause.* SEC. 2. Be it further enacted, That so much of the act defining the boundary line of Jefferson County, as conflicts with this act, be and the same is hereby repealed.

*Passed Feb. 8, 1833.*

*Approved Feb. 9, 1833.*

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**CHAP 687. [No. 30] AN ACT to define and fix the southern and western boundary line of Jackson County.**

*boundaries.*

SEC. 1. Be it enacted by the Governor and Legislative Council of the Territory of Florida, That the southern and western boundary line of Jackson County be so altered that the dividing line between said county and Washington on the southern side, shall be the basis parallel; and on the western side, the dividing line shall commence at the south west corner of township one, range twelve, north and west, being on said basis parallel, and running from thence a due north course on the dividing line between range twelve and thirteen, to the dividing line between township four and five, and the intersection of the

two said lines; thence a westerly course to the junction of Parrots creek, where it discharges its waters into the Choctawnat-chee river; thence up, and with said river to the Alabama line.

SEC. 2. Be it further enacted, That all laws and parts of laws, previously passed defining the southern and western boundary line of Jackson County, ~~etc~~ so far as they conflict with the provisions of this act, be, and the same are hereby repealed.

*Passed Feb. 15. 1833.*

*Approved Feb. 16. 1833.*

CHAP. 688 [No. 31.] AN ACT, more accurately to define the boundaries of Fayette County, and for other purposes. (see chap. 612 etc)

SEC. 1. Be it enacted by the Governor and Legislative Council of the Territory of Florida, That the district of country included within the following boundaries, to wit; beginning at the point on the Chatahoochee river, where the northern boundary of township four, range seven, north and west, intersects said river; and running thence west to the north west corner of township four, range eight, north and west; thence south to the federal road, thence with said road to the Chipola river; thence down said river to the cut-off; thence with said cut-off to the Apalachacola river; thence up the Apalachacola and Chatahoochee rivers to the place of beginning; shall constitute a county to be called, the county of Fayette.

SEC. 2. Be it further enacted, That it shall, and is hereby made, the duty of the judge of the superior courts in the western judicial district to hold superior courts for the said county, at the town of Ochesee, at such time as is, or may be provided for by law.

SEC. 3. Be it further enacted, That the district of country formerly included in the limits of Jackson County, and not within the lines of Fayette as prescribed by this act, shall revert back, and be considered as part of the county of Jackson.

SEC. 4. Be it further enacted, That it shall be, and is hereby made the duty of the judge of the county court of Fayette county, to hold two terms of said court in each and every year, at the town of Ochesee, commencing said terms on the first Monday in May and October.

SEC. 5. Be it further enacted, That all laws conflicting with the provisions of this act, be, and the same are hereby repealed.

*Passed Feb. 14. 1833.*

*Approved Feb. 16. 1833.*

repeal of laws  
conflicting with  
the provisions  
of this act.

superior court  
to be held at  
Ochesee.

part of Jackson  
county restor-  
ed.

county court.

Rep. clause-  
ed.

Chap. 689. [No. 32.] AN ACT to authorize the county court of Gadsden County to lay a tax for the purpose of building bridges in said county.

SEC. 1. Be it enacted by the Governor and Legislative Council of the Territory of Florida, That the county court of Gadsden County be, and they are hereby vested with full power, at their first session after the passage of this act, and annually thereafter, to assess and collect a tax to raise a fund for the purpose of building such bridges in said county, as the county court thereof has, or may hereafter order: Provided the same shall not exceed one hundred per cent on the assessed amount of the territorial taxes paid by each and every individual in said county.

mode of collecting tax.

SEC. 2. Be it further enacted, That the tax thus imposed shall be collected by the tax collector of said county at the same time and in the same manner that the territorial taxes are collected; and the same compensation shall be allowed to the tax collector as is allowed for the collection of territorial taxes.

subject to the order of county

SEC. 3. Be it further enacted, That the tax collector of said county shall pay over to the treasurer thereof such sum or sums of money as he may have collected, which shall be subject to the order of the county court of said county; and shall be liable to the same pains and penalties as are imposed by law upon the different tax collectors in this territory, for a failure or neglect to perform their duties.

Passed Feb. 14, 1833.

Approved Feb. 16th 1833.

Chap. 690. [No. 33] AN ACT to provide for the permanent location of the county site in Walton County and for other purposes.

location to be determined by an election.

SEC. 1. Be it enacted by the Governor and Legislative Council of the Territory of Florida, That an election shall be held in the county of Walton, for the permanent location of the county site in said county, on the first Monday in May next; which election shall be conducted by the same inspectors appointed to conduct the election for delegate to congress at each and every precinct, in said county.

returns to be made to the clerk of the co. court.

SEC. 2. Be it further enacted, That the inspectors of said delegates election shall within ten days after said election transmit, or cause to be transmitted to the clerk of the county court, a return of the election held for the county site of said county, and it shall be the duty of the clerk of the county court in said county to proclaim the settlement in said county elected for the location of the county site, by advertising the same in four of the most public places in said county, so soon as convenient after said election.

SEC. 3. Be it further enacted, That the settlement known by the name of Alaqua and that known by the name of " Sandy creek settlement," near Campbells pond, are hereby nominated as the places to be voted for, and that the place having a majority of votes shall be the permanent site of said county. Alaqua and  
Sandy Creek  
settlement to  
be the places  
voted for.

SEC. 4. Be it further enacted, That David Evans, Isaac M. commissioners  
appointed. Hunter, Neil McPherson Esq, Jacob Pyburn, and Richmond McDavid be, and they are hereby, appointed commissioners to select the most convenient situation in the settlement which shall be elected for the county site in said county, within sixty days after said election, whose decision of location shall be permanent ; and so soon as the election of location for county site is made by the commissioners or a majority of them, the said commissioners or a majority of them, shall have power and authority to contract for the erection of a court house in said county : Provided, that the sum for the erection of the same, shall not exceed two hundred dollars.

SEC. 5. Be it further enacted, That the county court of their duties &  
powers. Walton county, shall have power at the first term after the permanent location is made for county site, to direct the assessing and collecting of a tax for the purpose of defraying the expense of erecting a court house in said county : Provided the same shall not exceed twenty-five *per centum* upon the territorial taxes, nor more than twelve and a half per cent on the county taxes now authorised by law.

SEC. 6. Be it further enacted, That the county court of tax to be asse-  
sed by county  
court. said county shall also have the power to direct the assessing and collecting of a tax so as not to exceed one and a half cents, upon each head of cattle, (over twenty five,) that is owned by any citizen of said county, to raise an additional sum for the purpose hereinafter mentioned, and it shall be the duty of the owner or keeper of any stock of cattle, to give in upon oath (if required,) to the assessor, a true account of the number of cattle by them owned, or in his possession.

SEC. 7. Be it further enacted, That so soon as the court house in said county is completed and received by said commissioners, it shall be the duty of the judge of the superior court and the presiding justice or judge of the county courts, to hold their courts in said court house at such times as are required by law. county co. au-  
thorized to lay  
a tax on cattle.

SEC. 8. Be it further enacted, That all arrangements here- when in force. tofore entered into, relative to the location of the county site of Walton county, are hereby revoked ; and that this act shall take effect from and after its passage.

Passed Feb. 14th 1833.

Approved, Feb. 16, 1833.

(See chap. 576 CHAP. C91 [No. 34] AN ACT to establish and regulate the rates of pilotage for the St. Johns and Nassau rivers in the Territory of Florida.

fees and rates of pilotage.

SEC. 1. Be it enacted by the Governor and Legislative Council of the Territory of Florida, That the following fees and rates of pilotage be allowed to each and every pilot, piloting and conducting a vessel over the bar of the rivers St. Johns or Nassau, to wit; for every foot of water which said vessel may draw, two dollars; for every day which said pilot may be detained on board any vessel, two dollars.

vessels not taking pilot on board to pay the rates of pilotage.

SEC. 2. Be it further enacted, That when any vessel bound to the port of the rivers St. Johns or Nassau, shall be hailed or spoken by any pilot of the rivers aforesaid, East of the outer buoy, or East of the bar of Nassau outlet, and said vessel, not having a pilot on board, shall refuse to take and receive said pilot, so hailing and speaking, said pilot shall be entitled to demand and receive from the owner, master or consignee of said vessel the same fee and rate of pilotage as if said pilot had been taken and received on board said vessel, and have conducted and piloted the said vessel, in to any port or harbour to which she was bound.

outward bound vessels refusing to take a pilot to pay half the rates.

SEC. 3. Be it further enacted, That when any vessel outward bound, and about to sail from the rivers St. Johns or Nassau, and the master or owner of said vessel shall refuse to receive and take on board a duly authorized pilot of said rivers, such vessel, master and owner thereof, shall be liable, and is hereby made liable, to pay the pilot first tendering his service as pilot to said vessel, one half of the said pilotage which is hereby authorized to be charged and demanded, as if said vessel had been actually piloted and conducted from said rivers by said pilot.

how fees may be recovered.

county courts authorized to appoint pilots.

SEC. 4. Be it further enacted, That all fees and rates of pilotage which may become due, be and the same are hereby made recoverable before any court of record, or any justice of the peace in this territory.

SEC. 5. Be it further enacted, That the county courts of Duval and Nassau counties respectively, shall appoint and license such persons as may be deemed most fit and proper, to act as pilots for the conducting of vessels inward or outward from said ports, or either of them, during their good behaviour, and may require such bond with security for the faithful performance of the duties required of him, or them as the said courts may deem proper; which bond it required shall be made payable to the Governor of this territory for the time being, and his successors in office, and moreover, shall take and subscribe an oath or affirmation, well and truly to execute and discharge all the duties required of him or them as pilots.

SEC. 6. Be it further enacted, That all laws or parts of

laws heretofore passed conflicting with the provisions of this Rep. clause, act be, and the same are hereby repealed.

Passed Jan. 29, 1833.

Approved Feb. 1, 1833.

CHAP. 692 [No. 25.] AN ACT respecting the public property at St. Marks.

[see chap 515,  
553. 639. etc.]

SEC. 1. Be it enacted by the Governor and Legislative Council of the Territory of Florida, That from and after the first day of April next ensuing, the public buildings and wharf, in the town of St. Marks, shall be placed under the control of the incorporated authorities of that place, who shall have power to rent the same, and to apply the proceeds of such rents to the improvement of the said town, and of the public roads in the neighbourhood thereof.

corporation au-  
thorized to rent  
public proper-  
ty.

SEC. 2. Be it further enacted, That an act respecting the public property at St. Marks passed 10th Feb. 1832 be, and the same is hereby repealed.

act of 1832 re-  
pealed.

Passed Feb. 15, 1833.

Approved Feb. 16. 1833.

CHAP. 693 [No. 36. AN ACT amendatory of the several acts providing (see chap. 571  
etc.] for the building a jail at Key West.

SEC. 1. Be it enacted by the Governor and Legislative council of the Territory of Florida, That the Judge of the superior court of the southern Judicial District of Florida, be, and lie is hereby authorised to appoint and commission a commissioner in the place of Lackland M. Stone, to perform under the same rules and restrictions, the same duties prescribed for, and enjoined upon the said Lackland M. Stone, by the act of the council of February 10th 1831, entitled an act to provide for the building a jail at Key West.

Commissioners  
to be appointed

SEC. 2. Be it further enacted, That the term of two years time extended prescribed in the 5th section of said act, be and the same is hereby extended to the period of four years from the date of the passage of said act.

SEC. 3. Be it further enacted, That at any time, in case of duties of com-  
the death, removal, resignation or absence of either one of the missioner.  
commissioners, it shall, and may be lawful, and is hereby made  
the duty of the other commissioner to do and perform all the

duties enjoined upon the commissioners by said act, and all his acts and proceedings, when thus acting, are hereby declared to be of full force and effect, as if done and performed by both.

~~VACANCY to be filled up by superior court.~~ SEC. 4. Be it further enacted, That at any time, in case of the death, removal, or resignation of either one of said commissioners, it shall and may be lawful, and is hereby made the duty of the Judge of the superior court of South Florida, to appoint and commission another person to supply the vacancy occasioned by such death removal or resignation.

*Passed Feb. 17. 1833.*

*Approved Feb. 17. 1833.*

~~see chap. 556  
§43 etc.)~~

**CHAP. 694, (No. 37.) AN ACT to abolish the tax on hawkers and pedlars in certain cases therein named.**

~~articles manufactured in the territory exempted from tax.~~

SEC. 1. Be it enacted by the Governor and Legislative Council of the Territory of Florida, That from and after the passage of this act, no hawker or pedlar shall be liable to the tax imposed by law: Provided he or they shall produce evidence satisfactory to the court inwhich the same may be sued for, that the articles so by him exposed to sale, are articles manufactured in the Territory of Florida, any law to the contrary notwithstanding.

*Passed Feb 15, 1833.*

*Approved Feb. 16. 1833.*

~~(see chap. 579  
etc.)~~

**CHAP. 695 [No. 38. AN ACT to organise and regulate the Militia of the Territory of Florida, and to repeal an act passed 1st day of Feb. 1832.**

~~what persons required to perform militia duty~~

SEC. 1. Be it enacted by the Governor and Legislative council of the Territory of Florida, That every able bodied free white male inhabitant of the Territory, between the age of eighteen and forty-five years, who has resided in the same four weeks in time of peace, and ten days in time of war, shall be liable to be enrolled and perform militia duty, judges of the superior courts, judges of the county courts, United States marshals, district attorneys, justices of the peace, sheriffs, clerks, post masters, mail carriers, ferrymen, clergymen, teachers of public seminaries, keepers of public jails, keepers of light houses, and pilots, and their respective crews, are hereby exempt from doing militia duty, in time of peace; but in time of war,

or insurrection or revolt, are liable to perform militia duty, except such as are exempted by the laws of the U. S.

SEC. 2. Be it further enacted, That the militia shall be organised into two brigades, ten regiments and twenty battalions: and into five companies, for each battalion: The militia, west of the Suwannee, shall compose the first brigade, and east of the said Suwannee river, the second brigade; the first regiment shall be composed of the militia in the county of Escambia, the second of St. Johns and Mosquito, the third, of Jackson and Fayette: The fourth, of Duval and Nassau, the fifth, of Gadsden, the sixth, of Alachua and Columbia, the seventh of Leon, the eighth, of Washington, Walton and Franklin, the ninth, of Jefferson Hamilton and Madison, the tenth, of Monroe.

SEC. 3. Be it further enacted, That it shall be the duty of the colonel of each regiment, to subdivide the same into two battalions, by a line leaving the proportion of men as nearly equal on each side as may be; and he shall communicate the same to the Lieutenant colonel and Major, and shall assign to each his battalion, in writing, whose duty it shall be to subdivide their respective battalions into five equal parts, leaving an equal number of men in each, as near as may be, which subdivision they shall communicate to the captains of said districts, for their information in enrolling the men.

SEC. 4. Be it further enacted, That the Governor and commander-in-chief of the militia, shall be entitled to the following staff officers: an adjutant general, and one quarter master general, to rank as colonels, who shall reside at the seat of government, and four aids de camp, to rank as lieutenant colonels.

SEC. 5. Be it further enacted, That the brigades respectively shall be officered by one brigadier general, assistant adjutant generals, brigade Inspector, brigade quarter master, and two aids de camp to rank as majors. The regiments respectively shall be officered by a colonel, Lieutenant colonel, and major, the staff of each regiment shall consist of an adjutant to rank as captain, a quarter master, and pay master, to rank as first lieutenants, a surgeon and surgeons mate, Serjeant major, quarter master serjeant, drum major, and fife major; the companies respectively shall be officered by a captain, first, second and third lieutenants, four serjeants, four corporals and a drummer and fifer.

SEC. 6. Be it further enacted, That the staff officers of every grade, shall be appointed by the respective commanders, that is to say, that the Governor, brigadier generals, and colonels shall appoint their own staff: and that captains of companies shall appoint their noncommissioned officers by warrant, who shall serve two years or pay a fine of twenty dollars, on refusal to do so unless they remove from the company.

SEC. 7. Be it further enacted, That the following rules shall govern the militia.

organization of  
the militia.

sub-division of  
regiments etc.

Staff of the  
commander in  
chief.

Officers.

appointment of  
staff and non-  
commissioned  
officers.

rules for governing the militia.

1. Every commissioned officer, before he enters upon the duties of office, shall take an oath or affirmation, to support the constitution of the United States, and faithfully, and to the best of his abilities, execute the duties enjoined by his commission, which oath or affirmation shall be written on the back of the commission, signed by the officer and attested by the person administering the same.

2. The drill and exercise prescribed by the laws of the U. S. for the government of the army thereof, shall be adopted by the militia of this Territory.

3. The uniform of the officers shall be similar to that of the army of the U. S.

4. In the equipment of a private, a musket, rifle, or shot gun shall be indispensable: Provided, he be the owner of either.

5. At each muster the roll shall be called, and all delinquents reported to the proper officer.

6. Brigade regimental and battalion orders shall be given in writing, a copy of which must be kept by the proper officer.

7. On tours of duty, a private may be represented by an able bodied substitute, but on general requisitions, substitutes shall not be admitted to the prejudice of the service; tours of duty shall be limited to the period of six months, but volunteer corps may be made to serve for the whole time they stipulated on when mustered into service.

8. The militia shall aid the civil authority, on a written requisition of a civil officer specifying the object, and which shall seem reasonable to the officer applied to.

9. If a sudden invasion or insurrection shall take place or be made or threatened on any portion of the Territory, the commanding officer of the Militia, or any portion thereof adjacent thereto, shall be, and he is hereby authorised and enjoined to order out the militia under his command, to repel or suppress the same, and the troops thus ordered into service, shall be subject to and be governed by the rules and articles of war, prescribed for the government of the United States troops; and that said officer shall forthwith report the same to his commanding officer, and to the executive by express.

10. No officer, noncommissioned or private, shall be arrested by any civil process whilst attending any muster, court martial, or whilst on actual service, or whilst going to or returning therefrom, and any arrest or service of process, or execution on the person, at such time is hereby declared false imprisonment, except for treason, felony or breach of the peace, and all persons on such service as above named, shall pass all bridges and ferries free of expense.

11. The arms and various accoutrements kept by the militia, and used for militia duty shall be exempt from execution under civil process.

12. Breaches of order, subordination or disobedience to the

militia laws, on muster or other duty, shall be taken notice of forthwith, by the proper officer, and arrested and reported to the commanding officer, who shall order a court martial for their trial, or fine them in any sum not exceeding twenty dollars.

13. Any person or persons who shall by disorderly or riotous conduct, interrupt the militia whilst on muster, court martial or other duty, he or they so offending shall be arrested by the proper officer, or president of the court, and be fined in such sum as the court martial ordered for his or their trial may see proper to assess: Provided the same does not exceed twenty dollars,

14. In the proceedings of all court martials, the voice of a majority of the members shall be necessary to substantiate a sentence of guilty: And they shall award a punishment according to their estimation of the criminality of the accused.

15. All persons against whom charges shall be preferred, shall have due notice thereof, either written or printed, setting forth the specific accusation, and the names of witnesses if any are necessary. All field officers and their staff, shall have twenty days notice, all other officers, ten days notice: And non-commissioned officers and privates five days notice, except offences, breaches of the peace, insubordination, and other unsoldierlike behaviour, on muster, in camp or other duty, when the proper officer may arrest, and the commanding officer, detail a court martial forthwith for their trial.

16. In all courts martial the officer highest in rank, shall preside; but if there be two or more of the same rank, of the highest grade, the senior in commission shall preside, and the junior shall be recorder and he shall certify the decision of the court, and shall cause the same to be submitted to the officer ordering the court, which if he approves, shall be considered final, if the same shall designate the punishment, of enshiering, but for a fine only, the recorder shall hand it to the proper collecting officer to make the money.

17. The presiding officer of courts martial, shall be sworn by a member of the court, to form his opinion to the best of his understanding, and to render his judgment without partiality, favour or affection; and a similar oath shall be administered by the president to each of the other members. The president or recorder, on swearing the witnesses, shall swear them to speak the truth, the whole truth, and nothing but the truth; and the president shall have power to issue subpoenas, to compel the attendance of witnesses, and to serve such summons by such person as he may appoint, and designate; and said witnesses, shall give their attendance or pay a fine of not more than fifty dollars, at the discretion of the court martial.

18. All courts martial convened for the trial of delinquents shall be composed of the following ratio of commissioned officers, for the trial of a brigadier general, Col. lieutenant Col. or major, not less than five, nor more than thirteen field officers;

for the trial of the governors or brigadier generals staff, not less than three, nor more than seven field officers; for the trial of any other commissioned or staff officer, not less than three; for the trial of noncommissioned officers and privates, three commissioned officers.

19. Where a sufficient number of officers cannot be had to form a court martial, in any brigade, regiment, battalion, or company, the officer ordering the same may detail from the adjacent brigades, regiments, battalions, and companies, to complete the said court martial.

20. All officers detailed on courts martial, shall give their attendance or pay a fine not exceeding one hundred dollars, unless they satisfy the officer ordering the same, that causes beyond his or their control prevented their attendance, which cause shall be made known to the officer ordering the same in time to detail another officer.

SEC. 8. Be it further enacted, That when any regiment has failed or refused to organise under the law passed November 19th 1829, it shall be the duty of the brigadier general commanding the same, to order an election to be held in the same, to elect the field officers on the third Monday in May next, which order shall be published in the nearest newspaper to said regiment, and it shall specify such persons as they may appoint who shall also have a written order to hold said election, or pay a fine of fifty dollars each; and it shall be their duty to hold said election and make returns thereof, under such rules and regulations, as are prescribed for governing the election of civil officers of this Territory, and all men above the age of eighteen and under forty-five years, who reside within the said regiments, shall be entitled to vote, and the persons having the greatest number of votes shall be the persons elected.

SEC. 9. Be it further enacted, That if any regiment shall refuse to organise, under the eighth section of this act, by the thirteenth day of June next; then they shall be attached to the nearest organised regiment in said brigade, and shall compose part thereof, and perform militia duty therein; and any company who shall fail or refuse to organise when ordered to do so, shall be attached to the nearest organised company, and perform militia duty as part of said company.

SEC. 10. Be it further enacted, That if said regiments should elect their field officers, it shall be their duty to serve two years or pay a fine of five hundred dollars each, unless in cases of death or removal therefrom, and it shall be the duty of the commanding officer of each battalion, where there are vacancies in any company, to order an election to fill the same, by appointing two persons to hold said election, who shall make returns thereof, under such rules and regulations, as are prescribed for governing the election of civil officers in this Territory, and the persons appointed shall hold said elections or pay a fine of two

*Election of field officers in certain cases.*

*Regiments and companies refusing to organise.*

*Field officers to serve 2 years.*

ty dollars each, and the persons having the greatest number of votes, shall be elected, and shall serve two years, or pay a fine assessable by court martial, except in cases of death or removal from said company, which fine shall not exceed one hundred dollars.

SEC. 11. Be it further enacted, That it shall be the duty of the persons holding the elections in the various districts, allotted for captains companies, to give ten days notice thereof at three of the most public places in said district.

SEC. 12. Be it further enacted, That all military commissions above first serjeant, (except staff officers) shall emanate from the Governor, countersigned by the adjutant general.

SEC. 13. Be it further enacted, That from and after the passage of this act, the following rules and regulations, shall be observed in filling vacancies of the following named officers.

1. When any vacancy shall take place in the office of any colonel, it shall be the duty of the officer next in grade, in said regiment, to order an election to be held at the several precincts in said regiment.

2. When any vacancy shall take place in the office of any lieutenant colonel of infantry, it shall be the duty of the colonel of the regiment, in which such vacancy may happen, to order an election to be held at the several precincts in the battalion in which such vacancy may happen.

3. When any vacancy shall take place in the office of major, it shall be the duty of the colonel, or lieutenant of the regiment in which such vacancy may happen, to order an election in like manner; which said election shall be held and conducted under the superintendance of three persons, to be appointed by the officer or officers ordering said election, and it shall be the duty of the superintendants thus appointed, after being qualified, to open the polls at such time and places as the said officer or officers, ordering such elections may direct, and it shall be their duty to open polls and keep them open from ten o'clock in the morning, until four o'clock P. M. then the votes shall be counted, and a certificate made out stating the number of votes received by each person being a candidate, and the same shall be forwarded to the officer ordering the election, within ten days thereafter; and it shall be his duty to consolidate the returns and forward a certificate, naming the persons elected to the executive, who shall issue a commission: Provided always, that should it at any time happen, that the offices of colonel, lieutenant colonel, or major, in any requirement should be vacant, then, and in such case, it shall be the duty of any two captains, in said regiment, to order an election, which shall be held and conducted in the like manner: Provided also, that twenty days notice, by advertisement, shall be given of the time and places of holding any such elections.

SEC. 14. Be it further enacted, That where any vacancy

of election.

commissions.

rules for filling up vacancies.

**Captains, 1st,  
2d and third  
Lieutenants.**

shall take place in captains, first, second or third lieutenants commissions, the colonel, lieutenant colonel, or major, shall appoint in a reasonable time thereafter, two fit and proper persons within said company, to manage said election, who shall hold the polls at the usual muster ground, from 11 a. m. until 3 p. m. after having given ten days notice, at two of the most public places in said company, and on the same evening, the managers shall count over the votes and declare the person elected in a certificate directed to the officer ordering the same, who shall forward a certificate, naming the person elected to the executive, who shall issue a commission, thereon and that all officers now in commission, or that may be hereafter commissioned, shall hold the same during good behaviour, and shall not be permitted to resign in less than two years, unless they remove from the regiment or company district.

**fines for not  
holding elec-  
tion.**

SEC. 15. Be it further enacted, That when any person thus appointed, to hold elections in company districts, shall refuse or fail to do so, he or they so offending, shall be fined in a sum not exceeding twenty dollars, at the discretion of the officer ordering said election, and said fine shall be collected by the proper officer.

**time of hold-  
ing musters.**

SEC. 16. Be it further enacted, That company musters shall be held on the first Saturdays in January, April, July, and October.

**governor au-  
thorized to call  
out the militia  
in certain cases**

SEC. 17. Be it further enacted, That it shall be lawful for the Governor to call the militia into public service, whenever he may deem it requisite for the public safety; and it shall also, be lawful for the brigadier generals, colonels, lieutenant colonels, and majors, to order regimental musters in each and every regiment in this Territory, on the third Saturday in October in each and every year; and it shall be their duty to convene the commissioned and noncommissioned officers of each regiment, on the Thursdays and Fridays before each regimental muster to be drilled and taught the tactics.

**Provisions  
made in case of  
non complian-  
ce on the part  
of officers.**

SEC. 18. Be it further enacted, That should any officer, commanding any brigade, regiment, battalion, or company, fail or refuse to carry into effect, the provisions of this act, in consequence of the death, resignation, absence or incapacity to do so, then the senior officer in commission in said brigade, regiment, or battalion, or company, shall act in their stead, and if they should refuse or neglect to act, the next officer in grade, and so on shall act.

**notices of dif-  
ferent musters**

SEC. 19. Be it further enacted, That when any brigade muster, shall be ordered under the 17th section of this act, it shall be the duty of the officer ordering the same, to give thirty days notice, that when any regimental muster shall be ordered under said act, the officer ordering the same shall give twenty days notice; that when any battalion muster shall be ordered, it shall be the duty of the officer ordering the same, to give ten days

notice; that when any company muster shall be ordered, it shall be the duty of the officer ordering the same, to give five days notice, except the regular day of muster pointed out by this act: Provided nevertheless, that any of those officers may order out the militia under their command, at a minutes warning, in cases of invasion or insurrection.

SEC. 20. Be it further enacted, That it shall be the duty of the Governor to arrest the brigadier generals, for neglect of their duties, as pointed out in this act; and to detail a court martial for their trial.

SEC. 21. Be it further enacted, That it shall be the duty of the brigadier general, to see that each of his regiments are organised agreeably to this act, and to see that the proper officers make their return in due time to the adjutant general, through him as specified, and agreeably to form, and to arrest such field officer for neglect, and to detail a court martial forthwith for their trial.

SEC. 22. Be it further enacted, That it shall be the duty of the colonel of each regiment, to see that every company is duly organised, and that the captains and adjutants make their returns in due time, agreeable to form, to the proper officer, and to arrest such officers for neglect, and to detail a court martial forthwith for their trial. And it shall be the duty of each captain, to see that his company is duly organised, and to arrest such officers and privates, as shall neglect their duty, and detail a court martial for their trial.

SEC. 23. Be it further enacted, That it shall be the duty of the adjutant of each regiment, to keep a book in which the names of all captains and lieutenants, shall be registered for each company; the eldest company, shall be known as company A, the second as company B, and he shall make his return in due time agreeable to form, and report such captains as fail to make their returns in due time.

SEC. 24. Be it further enacted, That the returns of strength and equipments, shall be made by captains of companies respectively, agreeable to form in five days after the company muster, on the first Saturday in July in every year; and they shall transmit them to the adjutant forthwith, who shall within ten days after the receipt of the same, make his return agreeably to form and forthwith transmit it to the assistant adjutant general, who shall within ten days after the receipt thereof, make his return agreeably to form, and transmit it to the brigadier general, and if he shall approve the same, shall countersign it, and within five days transmit it to the adjutant general, who shall on or before the fifteenth day of October, amalgamate the brigade returns agreeably to form furnished, and transmit it to the adjutant general of the United States.

SEC. 25. Be it further enacted, That if any of the staff of the line shall refuse to carry into effect any of the duties as-

duty of the gov-  
ernor in case of  
arrest.

Of Brigadiers  
general.

of Colonel and  
Captain.

a Register to  
be kept by Ad-  
jutants.

Return of  
strength and e-  
quipment to be  
made.

Penalties for  
staff officers  
non-compliance  
with the provi-  
sions of this  
law.

signed to them, they shall be fined in a sum not exceeding three hundred dollars, or be cashiered at the discretion of a court martial, and if any captain, lieutenant, or regimental staff officer, shall refuse or neglect to execute any of the duties assigned him, he shall pay a fine not exceeding one hundred dollars, or be cashiered at the discretion of a court martial; and if any noncommissioned officer refuse or neglect to perform the duties assigned him in this act, he shall pay a fine of not more than twenty dollars, at the discretion of a court martial, and if any private shall refuse or neglect to perform the duties pointed out by law, he shall pay for every such offence a sum not exceeding ten dollars, at the discretion of a court martial.

SEC. 26. Be it further enacted, That the adjutants of each regiment, shall collect all fines assessed in regimental courts martial, on an order from the president of such courts, containing a particular account of the amount of all fines, how and when incurred, and the names of the persons against whom the same are assessed; and shall give bond with sufficient security to the colonels, that they will faithfully pay over all fines collected by them, to the pay master of their respective regiments, taking their duplicate receipts therefor, one of which receipts he shall transmit to the brigadier general, and the adjutant is authorised and hereby required under the penalty of twenty dollars, to call on every delinquent named in said warrant, or in a schedule or list to the warrant annexed, and to demand payment for said fine or fines, and on refusal to make payment for the said fine or fines on demand thereot, the adjutant having the aforesaid warrant shall proceed to collect said fine or fines, and shall be entitled to such costs as are received by sheriffs on executions, beside ten per centum on the amount collected.

Fines assessed  
by courts mar-  
tial, to be col-  
lected by the  
Adjutant.

SEC. 27. Be it further enacted, That the orderly serjeant of each company, shall collect all fines assessed in company courts martial, on an order from the president of such courts, containing a particular account of the amount of all fines, how and when incurred, and the names of the persons against whom they are assessed; and shall give bond with sufficient security, to their captains, that they will faithfully pay over all fines collected by them, to the paymaster of their regiment, taking his duplicate receipt therefor, one of which receipts he shall transmit to the colonel of his regiment, and he is hereby bound under the same penalty of the adjutant to make collections, and is to collect in the same manner, and shall receive for his sercices the same compensation as is allowed to the adjutants of regiments.

Collection of  
fines assessed  
by courts mar-  
tial.

SEC. 28. Be it further enacted, That the paymaster of each regiment, shall give bond and security to the colonel, or commanding officer in such sum as he may deem sufficient to pay over to the field officers of said regiment, all the monies he may collect, when a majority thereof shall give a written order

pay-master to  
give bond and  
security.

therefor, signed officially, reserving to himself five per cent. for collecting and paying out, and it shall be the duty of said pay master to report quarterly to the colonel, agreeable to a form furnished, the amount of monies on hand, under a penalty of not more than twenty dollars, for each offence, to be assessed by a court martial.

SEC. 29. Be it further enacted, That all monies paid into the hands of paymasters, shall remain there as a military fund, for the various regiments, until a majority of the field officers of each regiment, shall agree to dispose of the same, for the purpose of purchasing colours, drums and other military accoutrements for the regiments; distributing the same as equally as justice may require amongst the companies.

SEC. 30. Be it further enacted, That all the officers not specially mentioned in this act, shall perform their duties respectively agreeable to custom, in military bodies, or agreeable to the regulations of the army of the United States.

SEC. 31. Be it further enacted, That all orders or warrants issued by any senior officer, or president of any courts martial, ordered or detailed in pursuance of this act, for the collection of any fine or penalty imposed by this act, shall have the force and effect of an execution in law.

SEC. 32. Be it further enacted, That the right of appeal shall be allowed to any person against whom any fine may be imposed by any company, or battalion, courts martial, to the next regimental courts martial, upon entering into bond and security for eventual payment of said fine: Provided the same should not be remitted.

SEC. 33. Be it further enacted, That all laws and parts of laws, heretofore passed for the government of the militia of this Territory, are hereby repealed.

PASSED Feb. 15, 1833.

APPROVED Feb. 17, 1833.

## COMPANY RETURN.

## REMARKS.

Captains.	
Lieutenants.	
Sergeant's.	
Corporals.	
Drummers.	
Fifers.	
Privates.	
Swords.	
Spontoons.	
Rifles.	
Muskets.	
Bayonetts.	
Belts.	
Cartridge-boxes.	
Cartridges.	
Flints.	
Powder-horns.	
Pounds-powder.	
Balls.	
Knapsacks.	
Fifes.	
Colours.	

I do hereby certify that the above is a correct representation of the strength and equipment of company in the regiment of Florida Militia on the day of 183

Commander

Colonel.
Lieutenant Colonel.
Major
Adjutant.
Quarter Master.
Pi-y-master
Surgeon.
Surgeon's Mate.
Captains.
Lieutenants.
Sergeants.
Corporals.
Drummers.
Fifers.
Privates.
Swords.
Pistols.
Spontoons.
Rifles.
Muskets.
Bayonets.
Belts.
Cartridge-boxes.
Cartridges.
Flints.
Powder-horns.
Pounds powder.
Balls.
Knapsacks.
Drums.
Fifes.
Colours.

I do hereby certify that the above is a correct representation of the strength and equipment of the regiment attached to the Brigade of Florida Militia on the day of 183

Adjutant,  
of the regiment of Florida Militia.

Brigadier General.
Assistant Adj't. & General.
Brigade Inspector.
Brigade Quarter Master.
Aids de Camp.
Colonels.
Lieutenant Colonels.
Majors.
Adjutants.
Quarter-Masters.
Pay-Masters.
Surgeons.
Surgeon's Mate.
Captains.
Lieutenants.
Sergeants.
Corporals.
Drummers.
Fifers.
Privates.
Swords.
Pistols.
Spontoons.
Rifles.
Muskets.
Bayonets.
Belts.
Cartridge-boxes.
Cartridges.
Lints.
Powder-horns.
Balls.
Knapsacks.
Drums.
Fifes.
Colours.

I do hereby certify that the above is a correct statement of the strength and equipment of the Florida Militia on the day 183

A. B.  
Assistant Adjutant General of the Brigade of Florida Militia

have examined the above return and find it correct and approve it.

A. B.  
Brigadier General, of the Brigade of Florida Militia.

## A. B. Paymaster, to the — Regiment of Florida, Dr.

		Contrary,	Cr.
1833	To cash received of C. D. Adj. to said Regiment for fines collected for this year.	\$ 00 00	cts.
Feb. 6,	To cash received of E. F. Orderly Sergeant to said regiment, for fines collected this quarter.	00 00	

Sir: — Herewith you have my return for the quarter ending on the first of June 1833 — which you will please to acknowledge the receipt of.

Col. G. H. Commanding the — Regiment, Florida Militia.

A. B., Paymaster, to the — Regiment of Florida, Dr.

		Contrary,	Cr.
1833			
April 1.	To balance due the regiment last quarter To cash received of C. D. Adjutant to said regiment for fines collected this quarter.	\$ 00 00	cts.
		00 00	

		Contrary,	Cr.
1833			
June 10	By cash paid J. R. & M. Field Officers in said regiment as per order.	\$ 00 00	cts.

Sir: — Herewith you have my return for the quarter ending the 30th June 1833 — which you will please to acknowledge the receipt of.

A. B., Paymaster.

## CHAP. CCC (No. 39.) AN ACT providing for the establishment and organization of the St. Augustine guards.

St. Augustine Guards, constituted an independent company of the City of St. Augustine, known as the St. Augustine Guards, shall be, and the same is hereby constituted an independent company, to be called the St. Augustine guards.

how far it may be increased. SEC. 2. Be it further enacted, That the said company may be increased so as to consist of one major commandant, one captain, one first lieutenant, two second lieutenants, eight sergeants, eight corporals, six musicians and one hundred privates, by the voluntary enrollment therein of any qualified persons residing in the county of St. Johns or Mosquito.

officers, how chosen. SEC. 3. Be it further enacted, That the commissioned and noncommissioned officers of said company shall be chosen at an election to be held in said city, under the superintendence of its senior officers present, at or in front of the government house, on the first Monday in March next at ten o'clock in the forenoon: a majority of the votes given by said company shall be necessary to a choice, and all elections shall be by ballot.

commissions to be made out by the governor. SEC. 4. Be it further enacted, That all officers of said company above the grade of sergeants, their election being first duly certified and reported, shall be commissioned by the Governor of this territory according to law. Sergeants shall receive warrants from the commandant of said company, and all appointments shall be published in company orders. The several officers at present belonging to, and in charge of said company, shall be continued until the election above directed, and any vacancy which may happen thereafter, may and shall be filled at an election to be held and conducted agreeably to the rules and regulations of said company.

company musters 4 times a year. SEC. 5. Be it further enacted, That said company shall be mustered and appear in full uniform, under arms for drill and parade of inspection in said city at such periods as shall be directed by the commandant thereof, at least four times in each year, or so much oftener as may be required by the rules and regulations of said company, or by the general commanding the brigade within which it is formed. The reports and returns of said company shall be made to, and through the staff of such brigadier general; and the said company shall be entitled to, and may procure a stand of colours and at dress parades of inspection or drill, appear with the same displayed, agreeably to the usages of war: The said company may also adopt rules and regulations by the voice of the majority of members, and by the consent of the commandant, which when approved by the commander in chief, shall bind said company: Provided always, that the same be not repugnant to the laws of the territory.

authorized to adopt rules. Passed Feb. 7. 1833,

Approved Feb. 9, 1833.

## CHAP69 , (No. 49) AN ACT to incorporate the subscribers to the Union Bank of Florida.

SEC. 1. Be it enacted by the Governor and Legislative Council of the Territory of Florida, That a Bank shall be established in the City of Tallahassee, under the title of the "Union Bank of Florida," with a capital of one million of dollars, and with the privilege of increasing it to three millions of dollars, which capital shall be raised by means of a loan on the faith of the territory by the directors of the Bank: Provided, That no more than one million of dollars shall be taken up and called ~~at~~ at the time of organizing the Bank.

Union Bank established.

SEC. 2. Be it further enacted, That books of subscription (towards constituting the capital of said Bank) for the sum of one million of dollars, divided into shares of one hundred dollars each, and intended to secure the said loan to be made on the faith of the territory, shall be open on the first Monday of April next, after the passage of this act, in Tallahassee, Pensacola, St. Augustine, Jacksonville, Marianna and Key-West, under the superintendence of the commissioners herein named, a majority of whom at each place, shall form a board for the transaction of business; to wit:

Books subscription for stock to be opened.

At Tallahassee, under the superintendence of Ben. Chaires, R. W. Williams, Nathan Vickers, Wm. B. Nuttall, John Parkhill, Jonathan Robinson, Wm. Manor, Freeman Fitzgerald, John G. Gamble and Wm. Bailey.

At Pensacola, under the superintendence of Henry Hyer, Joseph Forsyth, John Jerrison jr., Samuel Patterson, Francisco Moreno, Hanson Kelly, Joseph Sierra, and George W. Barkley.

At St. Augustine, under the superintendence of Edwin T. Jenks, G. W. Perpall, Andrew Anderson, Antonio Alvarez, Daniel S. Griswold, Pedro Benet and John M. Hanson.

At Jacksonville, under the superintendence of Joseph B. Lancaster, Isaiah D. Hart, Wm. J. Mills, Louis Flemming, Samuel Y. Garey, John L. Deggett and Thomas J. Brown.

At Marianna, under the superintendence of John W. Campbell, Jacob Robinson, George C. Hodges, Thomas Orman and Wm. Robinson.

At Key-West, under the superintendence of James Webb, Fielding A. Brown, John Whitehead, Pardon C. Green, John W. Simonton, Wm. A. Whitehead and George E. Weaver.

The books of subscription in Tallahassee shall be kept open for sixty days; and in Pensacola, St. Augustine, Jacksonville and Marianna each thirty days, and Key-West ten days, when they shall be closed. And the commissioners at Pensacola, St. Augustine, Jacksonville, Marianna and Key-West shall, as soon as practicable thereafter transmit their subscription books to the commissioners appointed for the City of Tallahassee;

and with the books, shall also transmit all certificates and other documents of titles which may have been deposited with them. And upon receiving said subscription books, and documents of titles, the commissioners for the City of Tallahassee, shall make out a correct statement of the shares subscribed, and report the number thereof to the Governor of the territory.

**SEC. 8.** Be it further enacted, That if it shall appear from said report of the commissioners, that subscriptions have been made to the extent of three thousand shares, it shall be the duty of the governor to appoint twelve directors, five on the part of the territory, and seven on the part of the stockholders, who shall be subscribers to said Bank; which twelve directors shall constitute the first board of directors of said bank, and shall remain in office until the first Monday in February thereafter. The said directors shall proceed to elect one of their number as president of the Bank, who shall also remain in office until the first Monday in February thereafter. And any vacancy or vacancies which may happen in said board of directors by death, or resignation, or otherwise, shall be filled by an election to be made by said board. And so soon as said board of directors shall have been organized, the power of the commissioners appointed to receive subscriptions shall cease, and the books of subscription, with all papers relating thereto, shall be delivered over to the board of directors.

**SEC. 4.** Be it further enacted, That if at the time of organizing the first board of directors, it shall appear that more than ten thousand shares have been subscribed, the said board of directors, or a majority of them shall deduct the amount of excess from, first, the stock for which sufficient security shall not be offered, and then from the largest subscriptions, in such manner, that no subscription for one hundred shares or under, shall be reduced, while the excess may be reduced from larger subscriptions; and for subscriptions of one hundred shares, and under, if further reduction is required, it shall be made at a rateable proportion. And if it shall appear that the whole amount of ten thousand shares shall not have been subscribed at the time of closing said subscription books, the said books shall remain open under the direction of the board of directors, until the said number of ten thousand shares shall have been subscribed. And the fact that the full number of shares had not been subscribed for, and that the books will continue open for additional subscriptions, shall be published in the several newspapers published in the territory for thirty days. And similar notice of the opening of the books of subscription shall be republished at the beginning of each succeeding year, until the said number of ten thousand shares shall have been subscribed.

**SEC. 5.** Be it further enacted, That the owners of real estate, situated in the Territory of Florida, and who are citizens thereof, shall be the only persons entitled to subscribe to the

president and  
directors how  
appointed.

excess of sub-  
scription.

who may be-  
come subscrib-  
ers.

capital stock of said Bank; and shares so subscribed shall until after one year, be transferable only to such persons being citizens: but after the expiration of one year, they shall be transferable to any owner of real estate in this territory, whether a citizen or not.

SEC. 6. Be it further enacted, That as soon as convenient <sup>appraisers to be appointed.</sup> after the passage of this act, the Governor shall, by and with the advice and consent of the legislative council, appoint five appraisers in each of the counties of this territory, whose duty it shall be to ascertain and appraise property of those who wish to become stockholders in said Bank. And the said commissioners shall deliver to all persons whose property they appraise, detailed and authentic certificates of its value, of the number of acres of which each tract is composed how many in cultivation, and how many are uncleared and not cultivated, the number of slaves, the number and quality of buildings, and an estimate of the value of each item, which certificate must be signed and sworn to before a magistrate of the county, by said appraisers or a majority of them.

SEC. 7. Be it further enacted, That the board of directors <sup>Directors to be judge of sufficiency of security.</sup> shall be the judges of the sufficiency of the mortgages offered for the stock, and shall have power to refuse, or reject the same if not sufficient, and shall in such case require other security, or in default reduce the shares of such defaulters to the amount of the security satisfactorily furnished.

SEC. 8. Be it further enacted, That, to secure the payment of the principal and interest of the bonds to be issued by the <sup>may consist of land or slaves, or buildings.</sup> territory for the purpose of raising the capital of the Bank, the subscribers shall be bound to give a bond and mortgage, to the satisfaction of the board of directors, or (on) property to be, in all cases, at least equal to the amount of their respective stock, which mortgages may be on lands and slaves, on lots with houses or other edifices yielding a revenue: Provided, that no more than two thirds of the stock of such stockholder may be secured by mortgage on unimproved lands not pertaining to any plantation, nor shall any mortgage be taken upon any vacant lot in any town or city, no mortgage on slaves alone, shall be received; and when a mortgage shall be offered on lands and slaves, the value of the lands shall be equal to at least one half of the stock for securing which the mortgage is given, and houses and other buildings mortgaged to the Bank shall always be insured against the risk of fire, and the policy of insurance transferred to the said institution, but it shall not be necessary to insure buildings on plantations.

That no mortgage shall be received on a brick or stone house, or other brick or stone buildings for more than one half of its value, and on a frame house for more than one fourth of its value, that no one shall be permitted to subscribe until he shall exhibit to the commissioners or directors, such evidence of his ti-

tle to the property proposed as a guarantee to the bank, as may be deemed satisfactory to said commissioners or directors, and the certificate of the clerk of the county and superior courts in the county where the estate lies, whether there is or is not any incumbrance upon the same or judgment on the party, and if so their respective amount. That property already mortgaged may be received as a guarantee; Provided that there be first deducted from the whole appraised value of the property at least twice the amount of said mortgages, and stock to be granted only to the amount of the surplus, after such deduction. Provided, however, that such existing mortgage on said property shall not prevent the board of directors or the commissioners from receiving it at its full value, if the subscriber shall actually employ the money to be borrowed from the Bank in the extinguishment of said mortgage, and this extinguishment shall take place in the presence of the officers of the Bank or their appointed agent.

Bonds where deposited.

SEC. 9. Be it further enacted, That the bonds and mortgages given to secure the subscriptions to the capital stock of said Bank, shall be deposited in the office of said institution, the said mortgages having been first recorded according to law, and whenever application shall be made by a stockholder to transfer his stock and be discharged, such transfer and discharge may take place upon the new stockholder complying with the same requisitions stipulated in the foregoing section, in the case of an original subscriber, and in all such cases of transfer and discharge, the vote shall be taken by yeas and nays.

But any stockholder may at any time release his property by paying the amount subscribed, and also such loans as may have been made on the faith of it.

Faith of territory pledged. SEC. 10. Be it further enacted, That in order to facilitate the negociation by said Bank for the said loan of one million of dollars, the faith of the territory is hereby pledged for the security of the capital and interests, and that one thousand bonds of one thousand dollars each, to wit; two hundred and fifty bonds payable in twenty-four years; two hundred and fifty bonds payable in twenty-six years; two hundred and fifty bonds payable in twenty-eight years; two hundred and fifty bonds payable in thirty years; and bearing interest at the rate of not exceeding six per. centum. per annum, shall be furnished to the order of the "Union Bank of Florida," signed by the governor, and countersigned by the treasurer, and under the seal of the territory. Such bonds to be in the following words:

ONE THOUSAND DOLLARS,

KNOW ALL MEN BY THESE PRESENTS,

That the Territory of Florida acknowledges to be indebted to the "Union Bank of Florida" in the sum of one thousand dollars, which sum the said Territory of Florida promises to pay in lawful money of the United States, to the order of the president, directors and company of said Bank on the      day of      in the year one thousand eight hundred and

with interest at the rate of      per. centum, per. annum, payable half yearly at the place named in the indorsement hereon, viz: on the      day of  
and on the      day of      .

of every year, until the payment of said principal sum. In testimony whereof, the governor of the Territory of Florida, hath signed and the treasurer has countersigned, these presents, and caused the seal of the territory to be affixed thereto at Tallahassee, this      day of      in the year of our Lord

Govt. or.

Treasurer.

[countersigned]

The said bonds may be transferable by the endorsement of the president and of the cashier of the said Bank to the order of any person whomsoever, or to the bearer: and the said endorsement shall fix the place the said principal and interest shall be paid; and all expenses attending the issuing of said bonds, shall be paid from the funds of the Bank.

SEC. 11. Be it further enacted, That both the capital and interest of the said bonds shall be paid by said Bank as the same shall become due.

SEC. 12. Be it further enacted, That it shall be, and it is hereby declared to be the duty of the secretary of the territory, to affix the seal of said territory, to each of said bonds so signed and countersigned free of charge.

Secretary to affix seal

SEC. 13. Be it further enacted, That as soon as directors appointed in the manner provided for in the third section of this act, shall assume the duties of their office and elect a president, the same shall be notified to the governor who shall thereupon execute to the said Bank, from time to time, bonds in amount proportioned to the sum subscribed, and secured to the satisfaction of the directors, as required by the charter, until the whole amount of three millions of dollars shall be furnished in bonds as heretofore provided.

governor to issue bonds.

SEC. 14. Be it further enacted, That the mortgage to be given by the subscribers to the stock of the bank, shall be in the following form.

form of mortgage.

This indenture, made the      day of  
in the year one thousand eight hundred and  
between A. B. of the first part, and the Union Bank of Florida of the second part; Witnesseth, that the said party, of the first part, in consideration of one dollar, to him duly paid, hath sold, and by these presents doth grant and convey to the said party, of the second part, the following described premises to wit:

To have and to hold  
the said premises and appurtenances to the said party, of the second part, and their successors forever; and the said party of the first part covenants, for himself, his heirs, executors

administrators to pay to the said party of the second part, the sum of dollars, in the manner following to wit :

This grant is intended as a security for the payment of the aforesaid sum of dollars, according to the tenor and effect of the foregoing covenant ; which payment, if so made, will render the conveyance void. And if default shall be made in the payment of any sum due by the above covenant, as principal, interest or instalment, for ninety days, then the party of the second part, and their successors, may sell the premises above granted, or so much thereof as will satisfy the amount due, with reasonable costs and expenses at public auction, on giving thirty days notice of the time and place of sale, in some newspaper published in the county, or in the paper published nearest to the county. Witness, etc. etc. etc. etc. which mortgage shall be accompanied by a relinquishment of dower from the wife according to law.

SEC. 15. Be it further enacted, That the subscribers to the stock of said Union Bank, their successors and assigns be, and they are by this present act created a corporation and body politic, for and during the term of forty years from the passage of this act : and shall be, and are hereby made capable, under the name of the "Union Bank of Florida," to receive and possess all kinds of property, either moveable or immoveable, and to sell, grant, alienate, demise and dispose of the same, to loan, negotiate, take mortgages and pledges, and to discount on such terms and such securities as they shall judge proper :— Provided, that the whole amount of their account, and goods of every description do not exceed double the amount of the capital actually received, the profits realized and in the possession of the bank, being always considered as a part of their capital: and provided also, that the debt due by the bank, exclusive of the deposites, shall not exceed double the amount of their capital, and they may sue, and be sued, plead, and be impleaded, answer and receive answers, in all courts having competent jurisdiction, and to have a common seal, and the same to alter and renew at pleasure, and to ordain and establish such bye laws, rules and ordinances, as they shall deem necessary, and suitable for the government of the said corporation, not being contrary to this act, nor to the constitution and laws of the U. States, or to the laws of the Territory of Florida.

SEC. 16. Be it further enacted, That after the first appointment of directors as prescribed in the third section of this act, there shall be held an annual election for seven directors, to be made by the stockholders on the first Monday in February of every year, which election shall be held at the banking house of said bank, and the said seven directors shall be elected by the stockholders, or their attorneyes, after public notice of the time and place of holding said election, advertised in all the news-

term of incorporation.

election of directors, annual

papers printed in Florida, for a space of at least thirty days previous to the time of holding said election. In said election each stockholder shall be entitled to one vote for every share held by him; but no person, copartnership or firm, shall be entitled to a greater number than one hundred votes, and the said election shall be decided by a plurality of votes. No vote shall be given upon any share which has not been held by the owner for at least three calendar months previous to the election.—There shall also be annually appointed on the part of the Territory five other directors, which appointment shall be made previous to the fourth Monday of January in every year, in such way as the legislature may direct, and unless otherwise directed the said appointment shall be made by the Governor, by and with the advice and consent of the legislative council, and the directors thus elected by the stockholders, and appointed on the part of the Territory, shall at their first meeting after the said election proceed to elect one of the directors to be president of the said bank, and he shall remain in office during the time for which the directors shall have been elected, as above stated: Provided always, that if an election or appointment of directors or of a president shall not take place at the period fixed by the present act, the corporation shall not on that account be dissolved; but it shall be lawful at any other period, to hold the said election, or make the said appointment, as the case may be, and until such elections, the president and directors of the said Union Bank for the time being, shall continue in office. And in case of vacancy arising from death, resignation, nonacceptance, refusal to qualify, absence from the United States, or removal from office, of any director, the vacancy shall be filled by the board of directors.

SEC. 17. Be it further enacted, That the board of directors, of said corporation shall have power to make rules and regulations for the administration of the affairs of the bank; and may alter, add to, or repeal the same, as the interest of the corporation shall require; and the deliberations and acts of said board shall have the same force and effect, as if done by the stockholders themselves, in general meeting; Provided, the said rules, regulations, or acts, be not contrary to law, and provided also that such rules, regulations and acts, may be repealed or altered by the stockholders in general meeting.

power of directors.

SEC. 18. Be it further enacted, That the board of directors shall keep one or more books, in which shall be entered their rules, regulations, ordinances and proceedings which book shall at all times be open for the inspection of any committee, appointed for the purpose by the legislature; and such committee shall have access to all books containing the general accounts of the Bank, so as to ascertain the amount of cash on hand, the amount of notes in circulation, the balance due to, and from other banks, the amount of deposits, the amount of bills

Books to be open to inspection.

notes or bonds discounted, and all the other affairs of the said Bank, so as to know its true situation, and be enabled to make a true report to the legislature: Provided, That said committee shall not have a right to examine the individual accounts of the customers of the Bank. And it shall be the duty of the board of directors at the commencement of each session of the legislature to cause to be laid before it a true statement of the situation of the Bank; which statement shall be verified by the oath of the cashier.

**Sec. 19.** Be it further enacted, That none but a stockholder who is a citizen of the territory, shall be capable of serving as a director of said Bank; and after the first appointment, no stockholder shall be a director who does not at the time of his election, or appointment, possess at least twenty shares of the capital stock of said Bank. No director except the president, shall be entitled to any emolument, or pay for his services, nor shall any director of an other bank, nor shall two persons in partnership, be at the same time directors of this Bank: and if, after his election or appointment, any director shall fail, he shall be incapable of any longer holding his office, and another shall be elected in his place, in the manner prescribed in the sixteenth section of this act. The president elected by the first board of directors shall receive such salary or compensation for his services, as the board, by which he is elected, shall determine: and the salary of the president shall after the first year be fixed by the stockholders, at their first general meeting; and shall continue the same until altered by a subsequent general meeting.

**Sec. 20.** Be it further enacted, That the president and directors of said Bank, shall have power to appoint the cashier, tellers, book keepers, and all other officers and servants of the company, to prescribe their several duties, to allow them such compensation for their services, as they may deem reasonable — and all said officers and servants shall give such bond and security for the faithful discharge of their duties, as may be required by the board of directors, and shall hold their several offices only during the pleasure of said board.

expense of recording deeds, &c.

**Sec. 21.** Be it further enacted, That the expense of recording deeds, mortgages, &c. given by subscribers to secure the amount of the stock, or given to secure the repayment of loans made by the bank, shall be paid by the party giving the security. And the expense of appraising and valuing the property of proposed subscribers to the stock of the bank, by the commissioners appointed under the provisions of the sixth section of this act, shall also be paid by the parties requiring their services. And for said services the said appraisers are hereby authorised to demand and receive at the rate of one dollar each per day.

**Sec. 22.** Be it further enacted, That the shares held by a-

who shall be  
directors.

appointment of  
officers.

ny stockholder shall be bound for any debt he may owe to said bank, whether as payer, endorser or security; nor without the consent of the board of directors, shall such stockholder be permitted to transfer his shares, until such debt shall have been paid. And upon failure of payment, the board of directors may order a sale to be made of said shares, or so many thereof as may be sufficient to discharge the said debt.

stock bound for debts.

Sec. 23. Be it further enacted, That after paying the interest upon the bonds issued by the territory, and the expense of management, the surplus profits of the said bank shall be retained and used as additional capital, until the accumulated surplus shall equal the amount of the bonds issued for procuring the capital of the bank, and when the legislature is satisfied that the accumulated profits are of such amount, it may by resolution authorize dividends of subsequent profits. And in apportioning the dividends of such subsequent profits, one moiety thereof shall be paid to the Territory of Florida in consideration of the aid afforded in raising the capital of the bank; and the other moiety shall be divided among the stockholders according to their respective shares. But upon the expiration of the charter, the whole capital subscribed shall be divided among the stockholders, in the same ratio.

surplus profits.

Sec. 24. Be it further enacted, That the said corporation ~~penalty for not~~ shall never refuse or suspend the payment in lawful money of ~~paying specie.~~ the United States, of any of their notes or obligations, or of any funds received by them in deposit; and if ever the said corporation shall refuse or suspend said payment, the bearer of any note or obligation, or any person having the right to demand or receive the amount of funds deposited as above mentioned, shall be entitled to recover damages at the rate of ten per centum per. annum.

...

Sec. 25. Be it further enacted, That the capital of said Bank shall be exempt from any tax imposed by the legislature of Florida, or by any county, or body politic, under the authority of the territory, during the continuance of the present charter.

capital exempt from taxes.

Sec. 26. Be it further enacted, That mortgages for loans given by virtue of this act, shall bear the legal rate of interest after maturity if not punctually paid, and the Union Bank of Florida shall have the right to cause to be seized and sold according to law, the property mortgaged, in whose hands soever, the same may be found, in the same manner, and with the same facilities as if it was seized in the hands of the mortgagee, not notwithstanding any sale or change of title thereof by inheritance or otherwise.

Interest on mortgages.

Sec. 27. Be it further enacted, That if any individual, who shall have obtained from said Bank a loan secured by mortgage as aforesaid, shall make a surrender of his property to his creditors, the said mortgaged property shall not be comprised in the

other property bound.

cession, or in the mass of his estate, except in case of payment of the sum due to the Bank, and secured by the said mortgage: but the said Bank may proceed by a due course of law to garnish the said property in the same manner, as if no surrender had been had, or made, and the surplus of the proceeds of the sale, after paying the debts due to the Bank with costs, shall be paid over to his legal representatives.

SEC. 28. Be it further enacted, That upon loans or discounts for a time not exceeding four months, the said Bank, shall not receive more than one per cent. for sixty days; and not more than at the rate of eight per centum per annum, for a longer period; the interest in either case may be paid or deducted in advance.

SEC. 29. Be it further enacted, That each and every stockholder shall be entitled to a credit or loan equal to two thirds of the total amount of his shares: Provided, That notes or obligations for repayment of the money shall be annually received, and the interest paid up: And Provided also, That when the accumulated surplus profits shall have equalled the amount of the bonds issued by the territory for obtaining the capital of the Bank, the interest upon all loans shall be reduced to a rate not exceeding six per centum per annum.

SEC. 30. Be it further enacted, That whenever the said Bank shall have paid off, and delivered to the governor of Florida, all the bonds which may have been issued by the territory, for the purpose of raising the capital stock of the Bank, the right of electing directors by the territory shall cease; and thence forward all the directors shall be elected by the stockholders in the manner provided in section sixteen of this act.

SEC. 31. Be it further enacted, That at any time after the said Union Bank of Florida, shall have been in operation one year, the remaining capital of two millions of dollars, mentioned in the first section of this act, or such portion thereof as the directors may deem advisable, may be subscribed for, and taken up; and for that purpose books of subscription shall be opened at the banking-house of said institution, under the direction of the board, or of such committee thereof, as it may appoint; and the board of directors shall have authority to appoint appraisers in the several counties of the territory, to value and appraise the property proposed to be offered to secure the additional subscriptions to said capital stock, with the same powers, and under the same regulations, as prescribed in the sixth section of this act. And the board of directors shall have all the power and authority in relation to the subscription of the additional capital stock, which is given in this act, in relation to the original subscriptions. And the books for receiving subscriptions for the additional capital, shall be kept open for at least sixty days; and if the whole amount proposed to be subscribed shall not have been subscribed for in said sixty days,

rate of interest  
on loans

Stockholders  
entitled to cred-  
it.

Payment of  
bonds.

2000.000 when  
to be subscrib-  
ed.

The board of directors may order the books to be kept open, or to be then closed, and opened again at such times as said board may deem most expedient. But if at the expiration of the sixty days aforesaid, it shall appear that subscriptions have been made to an amount exceeding the additional sum proposed to be subscribed, the excess shall be taken first from those subscribers, who were not previously stockholders in said Bank, by striking off from the legal subscriptions until reduced to the next largest &c.; and if after striking out all the subscriptions of parties not before stockholders, there shall still be an excess, it shall be so reduced as to make the new subscriptions of the stockholders as nearly as may be proportional to their old shares.

SEC. 32. Be it further enacted, That the board of directors of said Union Bank shall within six months after going into operation, establish agencies, or branches of said institution at St. Augustine, Pensacola, and Marianna, and shall have authority to establish branches at that time, or at any time thereafter at such other places in the Territory of Florida, as they may deem advisable; and shall also have authority to appoint the agents, directors, cashier, and other officers, of said agencies or branches, and to prescribe such rules and regulations for conducting and managing the same, as they may deem expedient—or they may delegate to the directors of any of such branches, the power of appointing the subordinate officers thereof, under such restrictions as the president and directors of the Union Bank may prescribe and that the branches and agencies ordered to be established by this act; or that may hereafter be established by the president and directors of the principal Bank, shall be managed by a president and six directors, who shall be stockholders, to be appointed as prescribed in the foregoing part of this section.

SEC. 33. Be it further enacted, That in all instances in which slaves shall be mortgaged in virtue of this act, the possession thereof shall be, and remain with the mortgager, any law to the contrary notwithstanding, until by the covenant or covenants contained in said mortgage, it shall be lawful for the said bank to seize the same. And if at any time the president of said bank or any accredited agent thereof, shall make oath before any judge of the county court or justice of the peace, that he verily believes that the said mortgagor intends removing, or is about to remove, or has commenced to remove the said slave or slaves beyond the reach of the laws of this territory, in violation of his covenant with the bank, it shall and may be lawful for said judge or justice to issue an attachment against such slave or slaves directed to any marshal commanding him to seize, and take such slave or slaves, and make return thereof to the next court, having competent jurisdiction in the same way as is provided by the general law of attachments: Provided moreover, That in any case of mortgages on a slave or

branches to be established.

mortgaged property liable to seizure.

slaves, by virtue of this act, the increase of such slave or slaves shall be subject to the same lien created by said mortgage.

SEC. 34. Be it further enacted, That the said bonds to be bonds not to be executed, and furnished by the said governor, in the name of sold at a disc't. this territory, as in the tenth section of this act, is provided, shall in no instance be sold, or negotiated at a discount, or for a less sum than the amount named and expressed in said bonds, for the purpose of raising the capital of said Bank; But in every such case, each and every bond sold for a less sum than the amount named and expressed therein, shall thereby become forever, absolutely null and void.

SEC. 35. Be it further enacted, That in case of a violation violation of 15 of the provisions of the fifteenth section of this act, the directors under whose administration it shall happen, shall be liable for the surplus debts thus created, in their natural private capacities, and an action of debt may in such cases be brought against them, or their heirs, executors, administrators, in any court of record, having competent jurisdiction, by any creditor or creditors of said corporation, and may be prosecuted to judgment and execution, any condition, covenant or agreement to the contrary notwithstanding: but this shall not be construed to exempt the said corporation, or the lands, tenements, goods and chattels of the same, from being also liable for and chargeable with the said excess: Provided, That such of the directors who may have been absent from the board when said excess was contracted or created, or who may have dissented from the resolution or act, whereby the same was contracted or created, may respectively exonerate themselves from being so liable, by forthwith giving notice of the fact, of such absence or dissent, to the governor of the territory.

SEC. 36. Be it further enacted, That one moiety of the dividends or profits, which according to the 23d section of this act is to accrue and be paid to the territory, shall forever be held and appropriated by this territory as a fund, to be controlled, invested and regulated so that the annual interest or dividends which may accrue thereon, shall be applied as the legislature may or shall from time to time direct, exclusively to, and for the establishment, support, and use of schools, colleges and seminaries of learning in this territory.

*Passed Feb. 12. 1833.*

*Approved Feb. 13. 1833.*

CHAP. 698 [No. 41.] AN ACT amendatory to the several acts incorporating the Bank of West Florida.

[see chap. 45  
456 555, 65  
etc.]

SEC. 1. Be it enacted by the Governor and legislative council of the Territory of Florida, That the directors of the bank of West Florida, shall be authorised whenever they may deem it expedient, to increase the capital stock of said bank to one million of dollars; and that the directors of said bank, may be authorised to receive subscriptions for the increased stock, at the banking house of said corporation, or at such places, and at such times as they may direct, in the manner prescribed by the existing charter of said bank.

SEC. 2. Be it further enacted, That the cashier of said bank, its attorney or agent, appointed under the seal of the corporation, may be authorised as the legal officers of said bank, to take the oath against its debtors, required by law, in suing out writs of attachments, and *ne exeat*.

Passed Jan. 15th 1833.

Rejected J. 23, 1833.

Reconsidered Jan. 29, and passed by the requisite majority.

board authori-  
ed to i creae  
the capital.

certain officer  
empowerd to  
take the oat  
case of attach  
ing.

CHAP. 699 [No. 42 AN ACT to extend the time limited by law for the sub-  
scribing for the stock of the Bank of Pensacola]

[see chap. 538,  
etc.]

SEC. 1. Be it enacted by the Governor and legislative council of the Territory of Florida, That, the time for subscribing for the capital stock of the bank of Pensacola, be, and the same is hereby extended until the first day of January, which will be in the year, 1834.

SEC. 2. Be it further enacted, That the act to incorporate the bank of Pensacola, passed January 31st one thousand eight hundred and thirty one, and an act entitled an act, to amend the charter of the bank of Pensacola, passed January 23d 1832, be and the same are hereby revived and continued in full force.

Passed Jan. 16, 1833.

Rejected Jan. 23, 1833.

Reconsidered Jan. 29 and passed by the requisite majority.

time for sub-  
scribing extend  
ed.

former laws re  
lative to the  
bank revived.

## CHAP. 700 [No. 43] AN ACT to incorporate the commercial Bank of Florida.

Bank established capital 500, 000.

SEC. 1. Be it enacted by the Governor and legislative council of the Territory of Florida, That a bank shall be established in the town of Apalachicola, by the name of the Commercial Bank of Florida, the capital stock thereof shall be five hundred thousand dollars, divided into shares of one hundred dollars each, the charter of the same to continue for the term of thirty years from the passage thereof.

Powers of incorporation granted.

SEC. 2. Be it further enacted, That the stockholders of said Bank, their successors or assigns, shall be and are hereby made a body corporate by the name and style aforesaid; and by that name shall be capable in law to have, purchase, receive, enjoy, and retain, to themselves and their successors, lands, tenements, and hereditaments, goods, chattels and effects, of any kind whatsoever, and the same to grant, sell, alien, and convey, to sue and be sued, plead and be impleaded, answer and be answered, defend and be defended, in courts of record and elsewhere, and to have and make a common seal, and the same to break, alter and renew at pleasure, and also to ordain, establish and put in execution such by laws, ordinances and regulations, as shall seem necessary and expedient for the government of said corporation, not being contrary to the laws of this Territory, or the constitution and laws of the United States, and generally to do, and perform such other acts and things, as may be necessary for the well being of said corporation.

time and places  
for subscription

SEC. 3. Be it further enacted, That books of subscription shall be opened for the purpose of receiving subscriptions for the stock of said company, on the first day of March, one thousand eight hundred and thirty three, at Apalachicola, for one third of the stock, under the superintendance of Robert Beveridge, Edward J. Hardin, William G. Porter, Hezekiah Hawley, and John O. Sewall;—at Marianna, for one third of the stock, under the superintendance of Richard L. Watson, Joseph Russ, and Peter W. Gautier Jr.—and at Webbyville, for one third of the stock, under the superintendance of Ebenezer J. Brown, Geo. C. Hodges, and David Goldstien, any two of whom shall be competent to perform the duties of their appointment, who shall keep open said books for the period of sixty days, or until the stock aforesaid, be subscribed for, and shall give certificates to all persons subscribing, stating the amount of shares subscribed for, and for the amount paid, and the said commissioners at Marianna and Webbyville, shall immediately after the expiration of said sixty days, or so soon as said stock shall be subscribed for, transmit to the said commissioners at Apalachicola, the books and papers appertaining to said subscriptions, together with all monies received by them on account thereof.

SEC. 4. Be it further enacted, That at the expiration of said sixty days, or so soon as the stock aforesaid is subscribed for.

it shall be the duty of the said commissioners at Apalachicola, to give notice thereof, and order an election for nine directors of said company within three months from the time of opening the books aforesaid, and said directors shall serve until the first day of January eighteen hundred and thirty four, but if all of said stock be not taken, then it shall be lawful for the said commissioners, or any two of them, at any time within one year after the passage of this act, to give notice thereof by advertisement, in one of the newspapers of this Territory, and to keep open their books for the term of six months, or until the whole of said stock be subscribed for, and no longer.

nine directors  
to be elected.

SEC. 5. Be it further enacted, That so soon as the directors aforesaid, shall be chosen, they shall at their first meeting elect a President, who must be a director, and the said first chosen directors, shall forthwith have and take the management of the said corporation and the duties of the said commissioners shall cease upon the day of said election, after they shall have paid over to the said directors the money by them received, as the first instalment on the stock subscribed for, and placed in the hands of said directors, the books of subscription: Provided, that said bank shall not commence operations until the sum of fifty thousand dollars be paid in:

president to be  
chosen by the  
directors.

SEC. 6. Be it further enacted, That upon each share subscribed for, there shall be paid at the time of subscribing one per centum, and ten per centum before the bank shall commence its operations; the residue to be called in at such time and in such portions as the board of directors may see proper, and should a stockholder fail to comply with the call of the board of directors, when properly notified thereof he shall forfeit his stock and the sum already paid thereon.

stock to be paid  
in, in certain  
proportions.

SEC. 7. Be it further enacted, That the directors for the time being, shall have power to appoint such officers, clerks, and servants, as may be necessary, and allow them such compensation for their services as may be reasonable, and shall further be capable of exercising such powers and authorities for the well ordering of the affairs of the corporation, as shall be fixed by the by laws of the same.

directors auth-  
orized to appoint  
their officers.

SEC. 8. Be it further enacted, That each share shall be represented by one vote, and upon the same principal shall all the matters be decided that may come before the stockholders for their decision, and any stockholder being absent, may by power of attorney authorise any other stockholder, to vote for him, her or them.

votes how giv-  
en.

SEC. 9. Be it further enacted, That the election of directors (except the first election) shall take place on the first Monday of January, in each and every year, at the banking house of the corporation: Provided however, that should said election not take place on that day, the said corporation shall not for that cause, be deemed to be dissolved, but the directors for the time being may order such election, so soon thereafter as practicable.

elections (sub-  
sequent to the  
first) on first  
Monday Jan.

~~notifications  
directors, sal  
of president~~

SEC. 10. Be it further enacted, That none but a stockholder, citizen of the United States, shall be a director, nor shall any director be entitled to any emolument, but the board may make such compensation to the President for his services as they may think reasonable, and in case of the death, resignation or removal of the President, the directors shall appoint one from their number to fill the vacancy, who shall hold his office during the remainder of the time, for which his predecessor was elected.

~~excessive issue  
prohibited-~~

SEC. 11. Be it further enacted, That said company shall not be authorised to issue bills of credit, for more than three times the amount of capital stock actually paid in; and in case an excess of issue shall happen, they shall be liable for the same in their individual capacities, but this shall not be construed to exempt the said corporation, or the goods, chattels, lands, and tenements, thereof from being also liable for, and chargeable with the excess.

~~restrictions on  
dealings of the  
bank.~~

SEC. 12. Be it further enacted, That the said corporation shall not directly or indirectly, deal or trade in any thing, except bills of exchange and promissory notes, gold and silver bullion, or in the sale of goods, really and truly pledged for money lent, and not redeemed in due time, or of goods which shall be the produce of its lands, neither shall the said corporation take more than at the rate of one per centum for every forty days upon its loans.

~~Property of  
stockholders li-  
able for redemp-  
tion of bills.~~

SEC. 13. Be it further enacted, That the personal property of each and every stockholder, shall be pledged and bound in proportion to the amount of shares held by each in his or her natural private and individual capacities for the ultimate redemption of the bills issued by or from said bank during the time he, or she may hold said stock.

~~Tax paid by  
bank to the ter-  
ritory.~~

SEC. 14. Be it further enacted, That the said bank shall half yearly, and before any dividend shall be declared by the directors thereof, set apart from the whole amount of the nett profits of the said bank, two per centum as a tax for the use of the Territory, and the said sum so set apart and appropriated to the use aforesaid, shall be in full consideration of all taxes of the stock of said bank, nor shall the stock of said bank be at any time subject to any other taxation.

Passed Jan. 31st 1833.

Rejected Feb. 6, 1833.

Reconsidered Feb. 7, and passed by the requisite majority.

CHAP. 701 [No 44] AN ACT to amend an act, entitled an act to incorporate the Bank of Florida, and to repeal an act to incorporate the Bank of Florida. Passed the 17th Nov. 1829.

[See chap. 439,  
etc.]

WHEREAS, the stockholders of the bank of Florida, having ~~preamble~~ petitioned for amendments of the charter of incorporation, and the amendment proposed being deemed reasonable and expedient.

SEC. 1. Be it enacted by the Governor and legislative council of the Territory of Florida, That such part of the capital stock of the bank of Florida, as has not heretofore been paid in, shall and may be called for, and paid in at the discretion of the stockholders, either in whole or in part, and at such time or times as to them shall seem expedient, or advisable : Provided, that in all cases of payment as aforesaid, thirty days notice shall be given, as to the time of payment, and the amount to be paid in ; and provided further, that upon all questions of payment, of said stock, the amount, or amounts, respectively to be paid, and the time or times when, shall be determined in general meeting of the stockholders, to be convened at the banking house for that purpose, and the votes of a *majority in interest*, shall determine.

Stockholders  
authorized to  
call in the stock  
after notice.

SEC. 2. Be it further enacted, That the number of directors of said bank shall be seven, and that the stockholders shall on the first Monday in March next, and annually thereafter on the first Monday in March, hold an election at the banking house for seven directors, and a plurality of votes given in, shall be required to make an election, and it shall be the duty of the directors, at their first meeting subsequent to their election, to choose one of their own members as President : Provided nevertheless, that if it should at any time happen that an election for directors should not be made upon any day when pursuant to this act it ought to have been made, the corporation shall not for that cause be deemed to be dissolved ; but it shall be lawful on any other day, to hold and make an election of directors, in such manner as shall have been regulated by the laws and ordinances of said corporation ; and the directors for the time being, shall in all cases continue to act, until their successors are elected : and provided further, that in case of the death, resignation or absence from the Territory, or removal of a director, his place may be filled up by a new choice, made by the remaining directors for the remainder of the year.

seven directors  
to be elected.

SEC. 3. Be it further enacted, That the number of votes to which each stockholder shall be entitled, shall be according to the number of shares he shall hold, that is to say, each share shall be entitled to one vote, and upon this principle, shall all matters and things be decided, which may come before the stockholders for their vote or decision : Provided, that no share or shares shall confer a right to vote, which shall not have been helden at least three calendar months previous to the time of

votes to be pro-  
portioned to No  
of shares.

offering such vote, and unless it be holden by the person in whose name it appears, absolutely and bona fide, or that of his wife, and for his or her own use and benefit, or as executor, administrator or guardian, or in the right and use of some copartnership, corporation or society of which he or she may be a member, and not in trust for, or to the use of any other person; any stockholder being absent may authorise by power of attorney, under seal, any other stockholder to vote for him, her, or them.

Four directors  
necessary to con-  
stitute a board.

SEC. 4. Be it further enacted, That no less than four directors shall constitute a board for the transaction of business, of whom the President shall always be one, except in case of sickness or necessary absence, in which case his place may be supplied pro tem pote, by any director appointed by the board present for that purpose.

Loans to stock-  
holders.

SEC. 5. Be it further enacted, That the directors shall have power to loan to stockholders upon the faith or pledge of their stock: Provided, that in no case such loan shall exceed the par value of the stock pledged.

Rep. clause.

SEC. 6. Be it further enacted, That so much of the act to which this is an amendment, passed the 17th of November 1829 as is contradictory to, or inconsistent with the provisions of this act, and all other acts contrary thereto, be and the same are hereby repealed.

*Passed Feb. 17th 1833.*

*Approved Feb. 17th 1833.*

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CHAP. 702 [No. 45.] AN ACT to incorporate the Protestant Episcopal con-  
gregation of Key West.

Pro. Ep. church  
in Key-West  
incorporated.

SEC. 1. Be it enacted by the Governor and legislative council of the Territory of Florida, That all those persons who have united themselves, by an act of association, for the purpose of forming a Protestant Episcopal Congregation, in the city of Key West, and such other persons as may hereafter join said association, shall be and they are hereby made and constituted a body politic, and corporate, by the name and style of the Rector, Wardens, and Vestrymen of St. Pauls Church, in the city of Key West, and by the same name, may sue and be sued, plead and be impleaded, make contracts, receive donations, purchase and hold real and personal property, and dispose of the same in any way as to the government of said church shall seem meet for the benefit of said congregation; and may have and use a corporate seal, with such device or devices as may be chosen, which device or devices may at any subsequent time, be altered at pleasure.

SEC. 2. Be it further enacted, That to secure a proper and efficient government of the temporal concerns of said church, an election shall be held on Easter Monday next, and on the same day in each succeeding year, for two Wardens, and five Vestrymen, who shall have power to enact by laws and make such other regulations as shall be found necessary for the prosperity of said congregation: Provided, such laws and regulations be not inconsistent with the constitution and laws of the United States, and with the laws of this Territory.

SEC. 3. And be it further enacted, That until the time appointed for the first election of Wardens and Vestrymen of said church shall arrive, the management of the temporal concerns of said congregation, shall remain and be executed by James Webb, David C. Pinkham, William A. Whitehead, Henry J. Newcomb, Fielding A. Brown, and John Whitehead, the committee appointed by said congregation for that purpose, and said committee shall superintend the first election for said officers, and every succeeding election shall be superintended by the Wardens and Vestrymen in office at the time of said election.

SEC. 4. And be it further enacted, That each and every male member of said congregation over the age of eighteen years, shall be entitled to vote at said election, but no person shall be eligible to either of said offices, who is not at the time of such election a member of said congregation, and who shall not have attained the age of twenty-one years.

SEC. 5. And be it further enacted, That if from any cause no election shall be held at the time designated by this act, the charter hereby granted, shall not on that account be forfeited, but in that event, it shall be the duty of the Rector of said church, (if there be one, who was regularly appointed to the same) to fill the vacancies occasioned by such failure to hold an election, from among the members of said congregation: and if there be no Rector, in charge of said church at the time, it shall be the duty of the Wardens, and Vestrymen, who were in office, when said election should have been held, to cause said election to be held at some other time, previously giving at least five days public notice of the time and place of holding the same.

SEC. 6. And be it further enacted, That if at any time, the property of said corporation shall be of value sufficient to produce an annual income of more than three thousand dollars, exclusive of the expenses, which may be necessary for buildings, furniture and repairs, it shall be the duty of the Wardens and Vestrymen to pay the excess of said income, beyond the said sum of three thousand dollars per annum, to the Treasurer of the Territory of Florida, for the use of said Territory.

SEC. 7. And be it further enacted, That at any time in the event of the death, resignation, or removal of the Rector of said congregation, the Wardens and Vestrymen aforesaid, for

election of wa  
dean & vestry  
men.

committee ap-  
pointed previ-  
ously to the 1st  
election.

vacancies how  
filled.

excess of in-  
come appropri-  
ated to the ter-  
ritory.

vacancy of rec-  
tor's place how  
filled.

the time being, shall have and exercise full power and authority, to fill the vacancy occasioned by such death, resignation or removal.

SEC. 8. And be it further enacted, That this act shall go into operation from and after its passage: and that said incorporation shall continue in full force for the term of fifty years from its date, unless the benefits thereof be sooner resigned, or forfeited by said congregation.

Passed Jan. 24th 1833.

Approved Feb. 4, 1833.

**CHAP. 703 [No. 46.] AN ACT to incorporate the columbian salt company of Key-West.**

company incorporated.

SEC. 1. Be it enacted by the Governor and Legislative Council of the Territory of Florida, That from and after the passage of this act, Pardon Clark Green of the said City of Key-West, and such other persons as may become associated with him, shall be, and they are hereby incorporated, and made a body corporate and politic, by the name and style of the columbian salt company of Key-West, and as such, shall continue until the first day of January one thousand eight hundred and fifty five that name may sue and be sued, implead and be impleaded, answer and be answered, defend and be defended in any court, and any other place whatsoever, and by that name may have and hold, purchase receive and possess, enjoy and retain, lands, rents, tenements, hereditaments, goods, chattels, and effects, of what nature, kind or quality, soever, necessary for the objects of their incorporation, and the same may sell, let, demise, alien and dispose of, and by that name shall have during the continuance of this act, succession and may make, have and use, a common seal, and the same may break, alter, and renew at pleasure, and shall have power to ordain, establish and put in execution such bylaws, ordinances and regulations as shall seem necessary and convenient for the government of said corporation not being contrary to law nor the constitution thereof, and generally to do and execute all acts necessary, or proper for the objects of said incorporation, subject to the rules, regulations, restrictions, limitations and provisions herein directed, and declared.

capital stock.

SEC. 2. Be it further enacted, That the capital stock of the said company shall consist of not exceeding one hundred thousand dollars, money of the United States, to be divided into shares of one hundred dollars each.

SEC. 3. Be it further enacted, That the affairs of the said

company shall be conducted by directors, who shall choose from their body, a president, two of the directors with the president shall form a board or quorum, for transacting all the business of the company. In case of the sickness of the president, or his necessary absence, his place may be supplied, by any director, whom he by writing under hand, may nominate for that purpose, or in case of his not making such a nomination, the board may appoint a president to act during his sickness or absence. The president and directors, who may be in office at the time of the passage of this act, or shall subsequently be appointed, by the stockholders, shall continue in office under and by virtue of this act of incorporation until others shall be duly chosen in their stead: and no person shall be a director, or president, who is not a stockholder, and a director ceasing to be a stockholder, shall cease to be a director. Every stockholder shall be entitled to vote by himself, his agent, or proxy, appointed under his hand and seal, at all elections in virtue of this act, and shall have as many votes as he shall have shares.

SEC. 4. Be it further enacted, That a general meeting of the stockholders of the said company, shall be held on the first Monday of May one thousand eight hundred and thirty three, and on the first Monday of May in every year thereafter, at such place as the president and directors may appoint, by giving two months notice in the newspaper published at Key West, if there be one, but if not there, in some newspaper published in Charleston, for the purpose of electing directors for the ensuing year: who shall meet as speedily as possible after their election, and choose a president, and the president and directors for the time being, shall continue in office until others shall be duly elected in their places, and be organised by the assembling of a quorum, and the choice of a president; at all elections the persons having the greatest number of votes, shall be deemed to be chosen; all elections shall be held under the superintendence of the president of the company, for the time being, and five stockholders not being at the time directors, but appointed by the board of directors, any four of whom shall be the judges thereof, and who shall immediately thereafter notify the persons elected and make a return thereof to the directors at their first meeting. Should two or more persons have the same number of votes, the other individuals elected directors shall determine by ballot, from among said persons, who shall be the director or directors. All elections shall be opened at ten o'clock in the forenoon, and close at three in the afternoon.

SEC. 5. Be it further enacted, That the president and directors, shall have full power to make, revise, alter and annul, all such rules orders, by-laws and regulations, for the government of said corporation, and that of its officers, servants and affairs as they shall, from time to time think expedient, and to use, employ and dispose of the funds and property of the said com-

duties of officers

elections

directors authorized to pass bye-laws.

pany, for the interest and benefit of the stockholders, and agreeably to the objects of the said incorporation.

books etc.

SEC. 6. Be it further enacted, That the books, correspondence, and papers, of the company, shall at all times be subject to the inspection of the directors.

appointment of officers.

SEC. 7. Be it further enacted, That the president and directors, shall have power to appoint all officers, or servants required, for executing the business of the said company, and to establish the compensation to be made to the president, and to the other officers, or servants of the said company respectively, but no compensation shall be given to a director for his services except by a vote of the stockholders, in a general meeting.

Meeting of stockholders

SEC. 8. Be it further enacted, That the president and directors shall have power to call a general meeting of the stockholders, for purposes concerning the interest of the company, giving at least two months notice in the newspaper published at Key West, or Charleston aforesaid.

Stock, etc. a.s. transferable.

SEC. 9. Be it further enacted, That the shares of the capital stock, at any time owned by any individual stockholder, shall be transferable only on the books of the company, according to such rules as may conformably to law, be established in that behalf, by the president and directors; but all debts actually due to the company, by a stockholder requesting a transfer, must be satisfied before such transfer shall be made.

dividends,

SEC. 10. Be it further enacted, That the dividends of the profits of the company, or so much of the said profits, as shall be deemed expedient and proper, shall be declared half yearly in the second week in January, and July, in each year; the amount of said dividend to be from time to time determined by the president and directors, and in no case to exceed the amount of the nett profits, actually acquired by the company, so that the capital stock of said company shall never be impaired by dividends.

Responsibility of directors.

SEC. 11. Be it further enacted, That if the said directors shall at any time wilfully and knowingly make, or declare, any dividend which shall impair the said capital stock, all the directors present at the making or declaring said dividend, and consenting thereto, shall be liable in their individual capacities to the company for the amount, or proportion, of said capital stock so divided by the said directors, and each director who shall be present, at the making or declaring of such dividend, shall be deemed to have consented thereto unless he shall, immediately enter into writing his dissent on the minutes of the proceedings of the board.

Vacancies how filled.

SEC. 12. Be it further enacted, That if any vacancy shall at any time happen among the directors, by death, resignation, or otherwise, the rest of the directors, for the time being, or a majority of them, shall elect a director to fill the vacancy.

SEC. 13. Be it further enacted, That in case it should at

any time happen, that an election of directors should not be made on any day, when pursuant to this act, it ought to have been made, the said corporation shall not for that cause be deemed to be dissolved, but it shall be lawful, on any other day, to hold, and make an election of directors at a meeting to be called in such manner as shall be prescribed by the laws and ordinances of said corporation.

Passed Feb. 17th, 1833.

Approved, Feb. 17th, 1833.

CHAP. 704 No 47. AN ACT to incorporate the St. Johns and St. Augustine canal company.

WHEREAS, Augustus Poujaud, William Travers, John A. Heanck, Elias B. Gould, Andrew Anderson, A. G. Swasey, Gabriel W. Perpall, Antonio Alvarez, J. M. Hanson, and others <sup>preamble</sup> have associated themselves together, for the purpose of constructing a canal, to connect the waters of the St. Johns river, with those of the St. Sebastian river, or the harbour of St. Augustine, in the county of St. Johns, and have prayed to be incorporated, the better to enable them to effect the object of their association, therefore,

Be it enacted by the Governor and Legislative Council of the Territory of Florida, That the persons above named, and all others who may be hereafter associated with them, their successors, and assigns, shall and are hereby declared to be a body corporate and politic, by the name and style of the St. Johns and St. Augustine Canal Company, with all the rights, liberties, powers, and authorities, incident to, and appertaining to a corporation, body politic, or natural person, and by the said name and style, may sue and be sued, plead and be impleaded, defend and be defended, answer and be answered unto, in all courts of judicature whatsoever, may purchase, hold possess, enjoy and retain, to themselves and their successors forever, real estate, and personal property of every description, and the same may grant, seal, alien, mortgage and dispose of, whenever, the interest of said corporation may render it necessary so to do, may have and use a common seal, and may destroy, alter and renew the same at their pleasure, and also ordain, establish, and put in execution, such by-laws, ordinances, and regulations as shall seem necessary and expedient, for the government of said corporation, not being contrary to the constitution or laws of the United States, or the laws of this Territory.

SEC. 2. Be it further enacted, That the capital stock of said company, shall be twenty thousand dollars, with the privilege afterwards of increasing the same to a sum not exceeding fifty

act of incorporation

amount of stock thousand dollars, as shall by the board of directors, hereinafter provided, be deemed necessary of the completion of said canal. Said stock to be divided into shares of twenty-five dollars each, subscriptions for which shall be opened on the first Monday in May next in St. Augustine, under the superintendence of Andrew Anderson, Antonio Alvarez, Augustus Paujaud, Elias B. Gould, G. W. Perpall, and John M. Lanzon; and in Jacksonville under the superintendence of Isaiah D. Hart, William J. Mills, John Warren and John L. Doggett, any three of whom at each place, shall be sufficient to discharge the duties required of them, at which places the books of subscription shall be kept open for sixty days, unless the stock should be sooner subscribed for, and at the time of subscribing, one per cent. on each share subscribed, shall be paid, and nine per cent. within one year thereafter, and the balance to be paid at the discretion of the board of directors: Provided, that no instalment shall be required to be paid after the second, unless thirty days notice thereof shall be previously given in a newspaper printed in St. Augustine, or by posting in four of the most public places in said city, and that not more than ten per cent. shall be required at any time within one year, and if stock to the amount of twenty thousand dollars, shall not be subscribed for within the said sixty days, then the said commissioners may keep the said books of subscription open for such time as the said board of directors, may think proper, and when said stock to the amount of said twenty thousand dollars, shall have been subscribed, the said commissioners shall deliver the said books of subscription together with all monies by them received, to the said board of directors; and the duties of the said commissioners shall then cease.

SEC. 3. Be it further enacted, That stock not paid for, according to the provisions of this act, shall be forfeited to said company, as shall all money which may have been paid thereon.

SEC. 4. Be it further enacted, That the property and concerns of the said company shall be managed and conducted by a board of twelve directors, to consist until a regular election by the stockholders as hereinafter directed of the following persons to wit: Augustus Paujaud, William Travers, John J. Hendrick, Elias B. Gould, Andrew Anderson, A. G. Swasey, G. W. Perpall, Antonio Alvarez, John M. Hanson, Antonio Triay, Peter Benet, and George Colee, with power to elect by ballot, one of their number, to be the president of said board, and the said president and directors, shall respectively hold their offices until the first Monday in January next.

SEC. 5. Be it further enacted, That an election by the stockholders of said company, shall be held in said city, on the first Monday in January of each and every successive year, for the choice of twelve directors, to constitute said board of directors, of which election, and the place of holding the same in said

property how managed.  
election of directors.

city; public notice, shall be given in some newspaper printed in said city, or by posting the said notice at four public places therein, at least twenty days previously thereto, and every such election shall be holden under the inspection of three stockholders, to be appointed for that purpose by the board of directors, and each and every stockholder, shall have one vote for every share he may own, and possess, not exceeding ten, one vote for any two shares over ten, and not exceeding twenty, and one vote for every four shares over twenty, but no stockholder shall be entitled to more than fifty votes, whatever may be the amount of his stock, any stockholder may vote by his authorised attorney or agent, and all votes shall be given by ballot, the twelve persons receiving the greatest number of votes, at such election, shall be duly elected, but no person shall be eligible to the office of director, who does not own and possess at least ten shares of said stock.

SEC. 6. And be it further enacted, That the directors so chosen, shall meet as soon as may be after such election, and by ballot shall elect one of their number to be their president, who shall preside for one year, and until another shall be chosen, and in case of the death, resignation, refusal or inability of any director to serve, such vacancy or vacancies, may be filled for the remainder of the year, by the said board of directors, and in case it should at any time happen, that an election of directors should not be made, on any day, when pursuant to this act, it ought to have been made, the said corporation shall not on that account be deemed to be dissolved; but it shall and may be lawful to hold an election, on any other day for directors, in such manner as may be regulated by the by-laws and ordinances of the said corporation: Provided, that if from any circumstance, the said election should not be held, the board of directors, then in office shall continue until their successors shall be elected, and qualified.

SEC. 7. Be it further enacted, That whenever in the opinion of said board of directors, it shall become necessary, in order to complete said canal, to increase the capital stock of said company beyond twenty thousand dollars, as provided in the second section of this act, it may and shall be lawful for said board, at such time and place as they may determine, and publicly appoint to open or cause to be opened, books for the purpose of receiving additional subscriptions to be made and to be received in such manner and upon such conditions as said board shall previously direct and prescribe: but it is hereby directed and provided, that by such additional subscriptions, the capital stock of said company is not to be increased in the whole, to a sum exceeding fifty thousand dollars, and that in case the subscriptions shall exceed the capital stock required, that subscriptions by stockholders shall always have preference, and each original stockholder, if he so elect, at the time of making his

Directors to choose one of their number president.

Stock may be increased.

additional subscription, shall be entitled to additional stock, bearing the same proportion to his original stock, as thirty is to twenty.

~~Stock assignee~~ SEC. 8. Be it further enacted, That the stock of said corporation shall be assignable and transferable, according to such rules as the board of directors shall make and establish.

~~officers how appointed~~ SEC. 9. Be it further enacted, That the board of directors shall have power to appoint such officers under them, as may be necessary to fix their compensation, to prescribe their duties, and require security for the faithful performance thereof, to displace such persons, and employ others when in their opinion the interest of the corporation may require it.

~~may take possession of lands etc.~~ SEC. 10. Be it further enacted, That in accomplishing the object, for which said company is incorporated, it shall and may be lawful for said company, by the board of directors, or their properly authorised agent, to enter upon and take possession of any lands, whatsoever, whether the same be covered with water or not, not being the property of the United States, which may be necessary to the prosecution and completion of the works contemplated in this act, or through which it may be necessary to cut or excavate the said canal, or whereupon it may be necessary to construct any dam, embankment, lock, or other fixture, or on which it may be necessary to make or construct any road, connected with, and appertaining to the navigation of said canal, or other object intended or implied by this act: Provided that no lands owned by private individuals, shall be taken for said purpose, without adequate compensation, being first made to the owner.

~~Compensation to individuals.~~ SEC. 11. Be it further enacted, That it shall be lawful for the said board of directors, or their properly authorised agent, to take from any land most convenient to their works, and at all times such timber, stone, earth, and other materials, as may be necessary for the construction of, and keeping in repair said works, and improvements: Provided, that nothing belonging to private individuals, shall be taken or used, without permission in writing, being first obtained, or just and adequate compensation being made in default of such permission.

~~writ of ad quod  
damnum when  
issued.~~ SEC. 12. Be it further enacted, That whenever it shall be necessary for the said company, to take possession of and use any land, timber, stone, or other materials, owned by private individuals, upon and for the route and site of the said canal, or of the works appurtenant thereto, or for the construction and keeping in repair the same or any part thereof, and the said owner or owners do not convey or give previous permission in writing, to take and use the same, or do not agree with said company upon the value of the same, it shall and may be lawful for the board of directors, or their properly authorised agent, to apply to the judge of the county court of the county in which such lands, timber, stone, or other materials lie, for a writ of

*ad quod damnum*, directed to the marshal, sheriff, or other officer of said county, to summon five disinterested persons of lawful age, and freeholders, to meet and appraise the said property on oath to be administered to them, by the said marshal, sheriff, or other officer, whose duty it shall be to attend said inquest in person, and receive their report, and also to receive from the said board of directors, or their agent the sum or sums of money awarded by the said inquest, and stated in said report, and to pay over the same to the person or persons authorised to receive the same, taking an acquittal therefor; and until payment is made to the said marshal, sheriff, or other officer, of the sum or sums so awarded, it shall not be lawful for the said company to take possession of, or use such land, timber, stone, or other materials, and all the expenses incurred by the proceeding on said writ shall be paid by said company, but the appraisers shall not receive more than one dollar each per day.

SEC. 13. Be it further enacted, That all property so appraised and paid for, by said board of directors or their agent, agreeable to the provisions of this act, and all purchases made by, and donations made to them, shall forever after belong to, and become the property of said company, their successors and assigns, in fee simple, in proportion to the shares held and owned by each stockholder respectively.

SEC. 14. Be it further enacted, That it shall be the duty of said company to commence their works for the construction of, and excavation of said canal, as soon as practicable after said company shall have petitioned for and obtained a grant, or donation of such lands belonging to the United States, as may be necessary for the proposed object, or such lands, or other donations as Congress, in their liberality may think proper to grant to said company: Provided, That if after the said works shall have been commenced and completed, they shall at any time be permitted to go down, and remain so for the term of one year, without any attempt to repair or put the same in proper order, then, in either of these events, the said corporation shall be dissolved, unless some sufficient cause be shewn in justification.

SEC. 15. Be it further enacted, That the said board of directors, shall be authorised to determine when, and direct such rates of toll, for the use of said canal, as they may deem reasonable, and so soon as said canal shall have become suitable for navigation, the said company shall be entitled to demand and receive tolls, upon all vessels, boats, or other craft, and upon produce, goods, merchandize, or other articles, which may be transported upon, or pass up or down the said canal, and the said company may, from time to time, as circumstances may require, change and alter said rates of toll and fees: Provided, That no alteration which may increase the rates of tolls, shall have effect until three months previous notice thereof, shall have been given by advertisement in some public newspaper at St

Augustine, for three months successively, and the said company shall continue to receive and to collect such tolls and fees as they may from time to time establish, so long as said navigation shall be kept in sufficient order for transportation and navigation as aforesaid, and all vessels, boats, and other craft, and goods, merchandize, and other articles which may be transported or conveyed upon said canal, shall be liable for the tolls and fees for which they are respectively chargeable.

~~refusal to pay toll~~

SEC. 16. Be it further enacted, That in case of refusal, or neglect to pay the toll at the time of offering to pass through said canal, and previous to passing through the same, the collector of tolls may lawfully repel the passage, and if any boat, or other vessel should pass without paying the toll, then the collector or other officer may pursue, and seize such vessel, wherever found, at any time within two days, and unless the toll with reasonable charges be then paid, may sell the same at public auction, for ready money, which so far as is necessary shall be applied towards paying said toll and all expenses of seizure, and sale, and the balance if any, shall be paid to the owner, and the captain, owner, or master, of any boat, or vessel, or flat, passing or attempting to pass through said canal, and likewise the boat, vessel, or flat itself, shall severally be liable to the payment of any penalty, and likewise to all damages which may accrue in consequence of the violation of any of the provisions of this act, or any of the rules and regulations of the said board of directors, duly made and published, regulating the said canal, the navigation through; or the collection of tolls thereon: Provided, That nothing herein contained, shall be so construed, as to allow the said company to exact any toll on any vessel, boat, or produce, going down from, or coming up to any part or point of said river, at present navigable, for such vessel or boat.

~~Income when not to exceed 20 per. cent on capital.~~

SEC. 17. Be it further enacted, That after the expiration of two years from the time said company shall begin to receive tolls for the use of said canal, it shall be the duty of said board of directors, so to regulate the rate of toll, as that after defraying the costs of repairs, superintendence and other expenses incurred by said company, the net dividends or profits thereof, shall not average more than twenty per centum per annum, upon the amount actually expended in constructing and completing the said canal.

~~notice of completion of canal~~

SEC. 18. Be it further enacted, That after the said canal shall have been completed, the said company shall give public notice thereof, and after that time if any vessel, or boat, or any goods, wares and merchandize, shall be injured or damaged, by reason of any imperfection in said canal, or by reason of the negligence of any of the officers of said canal, the company shall be liable to pay all damages sustained thereby.

SEC. 19. Be it further enacted, That if any person shall, wilfully do, or cause to be done, any injury to said canal, or any

of the works attached thereto, or shall in any wise, obstruct or impede the navigation of the same, such person so offending, besides double damages to said company, shall be liable to be indicted, and on conviction thereof to be punished by fine and imprisonment, and in all such prosecutions, any officer or stockholder shall be deemed a competent witness.

penny for injuring canal

SEC. 20. Be it further enacted, that this act shall be liberally construed for the benefit of said company, and for the purpose <sup>not how con-</sup> of carrying into effect the objects thereof. <sup>strued.</sup>

Passed Feb. 9th 1833.

Approved Feb. 15th 1833.

CHAP. 705 [No. 48.] AN ACT to incorporate the Marianna academy.

Be it enacted by the Governor and Legislative Council of the Territory of Florida. That from and after the passage of this act, the academy in Marianna shall be styled and known by the name of the Marianna academy, and that Duke W. Horn, Ebenezer C. Ledgard, Grove A. Pease, James J. Pitman, James W. Exum, and Jacob Robinson, and their successors in office be, and they are hereby declared to be a body politic, and corporate by the name and style of the trustees of the Marianna academy and as such shall be capable and liable in law to sue and be sued plead and be impleaded and shall be authorized to make such by laws and regulations as may be necessary for the government of said academy; provided that such by laws be not repugnant to the laws of this territory or the laws and constitution of the United States, and for that purpose they may have and use a common seal and appoint such officers as they may think proper and remove the same from office at their discretion.

academy incor-  
porated.

SEC. 2. Be it further enacted, That the said trustees shall be and they are hereby made capable of accepting, buying and being invested with all manner of property real and personal, all donations, gifts, grants, privileges and immunities, whatsoever which may belong to the said institution or may hereafter be conveyed or transferred to them or their successors in office to have and to hold the same for the proper, use, benefit and behoof of the said academy.

powers of trus-  
tees.

SEC. 3. Be it further enacted, That when any vacancy shall occur among said board of trustees the vacancy may be filled in the manner provided by the by laws of said corporation.

vacancies how  
filled.

SEC. 4. Be it further enacted, That no tax, county or territorial, shall be levied upon said academy or upon any property real or personal belonging to said institution.

Property ex-  
empt from tax.

Passed January 31, 1833.

Approved Feb. 0, 1833.

## CHAP. 706 [No. 49.] AN ACT to incorporate the Presbyterian congregation of Tallahassee

Be it enacted by the Governor and Legislative Council of the Territory of Florida, That John G. Gamble, James S. Linn, Elisha B. Perkins, David C. Wilson and George W. Ward and their successors, shall be and are hereby constituted a body politic and corporate to be known by the name and style of the trustees of the presbyterian church of Tallahassee "and by that name shall have all the powers, and privileges which appertain to natural persons, and which are not herein limited or otherwise directed and that the said trustees and their successors in office be and remain invested with all property, real personal and mixed, which is now or hereafter may become vested in or belonging or due to the said church not exceeding fifty thousand dollars, to have and to hold the same, for the use and benefit of said presbyterian church: and the said trustees and their successors shall be capable of suing and being sued, implead and being impleaded in their corporate name, and of using all necessary legal measures for recovering any property, which the said church may claim or demand, and of recovering the same or any part thereof, with powers to make all lawful rules and regulations necessary for the good government of said church.

*election of trustees.* SEC. 2, Be it further enacted, That an election of five trustees of said church shall be held once in each and every year by a majority of the white male members of said church, but should the said election at any time not be made then in that case the trustees in office shall remain until their successors are duly appointed.

Passed, Feb. 13th 1833.

Approved, Feb. 16th. 1833.

{ see chap. 553,  
689, 692, etc.] CHAP. 707 [No. 50] AN ACT to incorporate the town of St. Marks.

Incorporation. Be it enacted by the Governor and Legislative Council of the Territory of Florida, That all the free white inhabitants of that part of the County of Leon, comprehended between the Waculla and St. Marks, rivers, and a line commencing at a point on the St. Marks river, half a mile above the junction of that river with the Waculla and running thence westwardly at the distance of half a mile from the confluence to a point on the Waculla, distant also half a mile from the point of confluence, shall be and they are thereby constituted a body politic and corporate, by the

same and style, of the town of St. Marks, and by their corporate name and in their corporate capacity, may sue and be sued, implead and be impleaded; and do all other acts as natural persons, and may purchase and hold real, personal and mixed property, or dispose of the same for the benefit, of the said town, and may have and use a common seal.

SEC. 2. Be it further enacted, That the Government of said city shall be vested in an intendant and eight council men, who shall be elected in the manner hereinafter prescribed, and no person shall be eligible as intendant or council men, who is not the occupant of a house within the said limits, or who shall not have resided within the same for at least three months.

SEC. 3. Be it further enacted, That the intendant shall have the power, and exercise all the duties, and may receive the fees allowed by law to a justice of the peace within said corporate limits.

SEC. 4. Be it further enacted, that the intendant shall preside in all meetings of the aforesaid council; and shall give the casting vote, on any question, when the council men shall be divided, the said intendant and council men shall have full power and authority to prevent, and remove nuisances, to licence and regulate retailers of goods and liquors, keepers of taverns, to restrain or prohibit all sorts of gaming, to license and regulate all public shows, or amusements, or games, not prohibited by law, to establish and regulate markets, to provide for the safe keeping of the standard of weights, and measures, appointed by congress, for the use of the said town; to establish and regulate patrols; to regulate the useing of gunpowder; to tax and licence hawkers and pedlars, to restrain and punish vagabonds, and other disorderly persons; to provide for the, establishment of a public shool or schools, to pass such ordinances as may be necessary to prevent the introduction of contagious disorders within the town; to erect lamps; to regulate the stationing, anchorage and moving of vessels; to license and regulate billiard tables, hacks, waggons, carts, drays; to keep in repair all public roads leading to said town, for the distance of three miles from the same, drains and sewers, and all necessary public buildings; to establish and regulate fire companies, to erect and regulate cisterns, for public use.; to establish, and regulate the inspection of all articles of provisions, tobacco, cotton, gunpowder, to regulate the quality or weight of bread, to preserve the navigation of the harbour, and the rivers adjacent to the town, to erect repair, and regulate public wharves; to provide for the appointment of all such officers as may be necessary, to execute, the laws of the corporation, and to fix their, compensation; to lay and impose such taxes, and provide for the collection, thereof, as may be necessary: Provided that no tax higher than three fourths of one per cent on the assessed value of real property shall be imposed, to defray the expenses of the said corpo-

intendant and  
eight council  
men elected.

power & duty  
of intendant.

Intendant to  
preside & have  
a casting vote.

ration; and provided also, that no ordinance shall be passed, granting any pay to said intendant, or councilmen; to open, extend, alter and regulate, the streets within the limits of the said town, and to remove all buildings or fences as may impede the same, provided they make to all such persons, as may be injured thereby, just and adequate compensation, out of the funds of the corporation, to be assessed by a jury summoned by the executive officer, of said board for that purpose; to impose and appropriate, fines, penalties, and forfeitures, for any breaches of their ordinances, to restrain, and punish offences committed by negroes, and people of colour; and to pass all by-laws and ordinances necessary to give effect and operation to the powers hereby vested, in said corporation, provided the same are not inconsistent, with the by-laws of this territory, or those of the United States.

SEC. 5. Be it further enacted, That Joseph W. Klein, John <sup>superintendent</sup> A. Macinder and Robert Sturgess, or any two of them be, and <sup>of election.</sup> they are hereby appointed to superintend the election for intendant and councilmen of the said town, on the fourth monday of February next.

SEC. 6. Be it further enacted, That all elections subsequent <sup>subsequent to</sup> to that, provided for in the preceding section, for intendant and councilmen for the said town, shall take place, be conducted, and return be made thereof, in the same manner in all respects as is provided by a law passed the tenth of January 1827, entitled an act, to incorporate the City of Tallahassee; and that the same oaths provided for in said act, shall be administered to the said board when elected, who shall hold their offices, conduct their meetings, execute their respective duties, fill vacancies in their body, judge of the election returns, and of the qualifications of those elected, elect officers, expel a member, enact and promulgate ordinances in the same manner, and under the same provisions and restrictions, as are contained in the aforesaid act, of the 10th January 1827.

Passed Jan. 26, 1833.

Approved Feb. 1, 1833.

[<sup>see chap. 547, CHAP. 708 [No 51.] AN ACT to incorporate the city of St. Augustine and etc.]</sup> to repeal the act entitled an act to incorporate the city of St. Augustine, approved the 11th of February 1831.

Be it enacted by the Governor and legislative council of the Territory of Florida, That all the free white inhabitants, residing within the limits of a line, drawn east and west, commencing at low water mark, on the north beach, and running west to the river St. Sebastian, so as to include bar creek, thence.

along the western shore of said river to its mouth, thence east to the eastern edge of the southern sand bank, at the entrance of the harbour, thence north to intersect the first line on the beach at low water mark; and their successors be, and are hereby declared to be a body politic and corporate by the name and style of the city of St. Augustine, with all the rights, liberties, powers, and authorities incident to, and appertaining to a corporation, body politic, or natural person; and by the said name and style, may sue and be sued, plead and be impleaded, hold possess and enjoy real estate, and personal property, and dispose of and transfer the same, and so dispose of and manage the funds of said city, as shall be most beneficial to the interest thereof.

St. Augustine  
incorporated.

Sec. 2. Be it further enacted, That the government of the said city, shall be vested in a person to be called the mayor, and four aldermen, who shall compose a council for the management of the affairs of the city. The said mayor, and aldermen shall be elected annually on the second monday of November, from amongst the qualified voters of said city.

Government  
how vested.

Sec. 3. Be it further enacted, That the said council shall have power and authority to pass all laws and ordinances that may be necessary, and expedient for the good government of said city, the preservation of the public morals, and for the prevention and punishment of offences against the public peace: Provided, That the same are not inconsistent with the constitution or laws of the United States, with the laws of this Territory, or the powers by this act granted, and intended. The said council shall especially have power to regulate, improve, alter, and extend the streets, lanes, avenues and public square; and to open new streets, and cause encroachments, obstructions, decayed buildings, and old ruins to be removed, making the parties injured by any improvement, a just compensation, and charging upon those benefitted a reasonable assessment, to be ascertained in such manner as shall be agreed upon by the parties, or by a jury of twelve men, to be organised in such manner as by ordinance the said council may provide. The said council shall have power to prevent and abate nuisances, to order and compel the owners, or occupants of lots upon which pools of water are, or are likely to accumulate, to fill them up, to regulate and compel parties by ordinance or otherwise, to erect and keep in repair partition fences; and to pass all laws and ordinances that may be necessary for the preservation of the public health. The said council shall have authority to guard against the introduction of infectious or malignant diseases, and for this purpose may regulate or prohibit the ingress or approach of vessels into the waters of the harbour, and whenever necessary, may compel them under fixed and certain penalties, to perform quarantine, and observe such other rules and regulations as to the said council may seem proper by ordinance to establish; may appoint pilots for the bar and harbour, pass all neces-

sary laws for their government; construct wharves, keys, and docks, regulate wharfage, dockage, and mooring and anchorage of vessels; erect bridges and terries, and establish the rates of ferrage and tolls, erect all necessary public buildings, and dispose of the same as the interests of the city may require; make and sink wells, erect pumps, dig drains, and do and perform all such other act or acts as shall seem necessary, and be best adapted to the improvement and general interests of the city, may pass all necessary laws to guard against fires, and to insure the sweeping of chimneys, may establish and regulate markets, and require all persons bringing fresh provisions into the city, to exhibit them for sale at proper market hours; may establish and regulate the weight and assize of meat, the inspection of provisions, or other produce being of the growth or manufacture of this Territory, that may be brought into said city for sale, or which may be sent from it, the gauging of liquors, the measuring or weighing of any articles of produce or merchandize, and the storing of gun powder, and other combustible naval and military stores, and the said council shall also have power to tax auctioneers, and license and tax retailers of goods and liquors, hawkers, pedlars, tavern and public boarding house keepers, all carriages, carts, and drays, restrain lotteries, tippling houses, gaming houses, houses of ill fame, and theatrical or other public buildings; suppress riots and disorderly assemblies, and may provide for the punishment of all persons guilty of breaches of the peace within the limits of said city, by fine and imprisonment: Provided, the fine shall in no case exceed five dollars, nor the imprisonment five days.

SEC. 4. Be it further enacted, That the said council shall have power and authority to provide, by tax or otherwise, a fund for the support of the poor, the infirm, the diseased, and the insane of said city; and to organise patrols, and to provide for the regulation, control, and punishment of negroes and persons of colour therein.

~~may levy taxes~~ SEC. 5. Be it further enacted, That the said council shall have power to assess, levy and enforce the collection of all such taxes, and other impositions as may be necessary for the support of the government of said city, and the improvement thereof; Provided, That no higher rate of tax shall be levied upon real estate, than one half of one per cent. on the assessed value thereof, to be determined by assessors, chosen in such manner as said council may provide; said taxes to be collected, after default shall be made in the payment thereof, by distress and sale; the sale in every such case, to be made, after public notices, and in the same manner, as property is sold when taken in execution, and the said council shall have power further to provide for the trial of all offences that may arise under the ordinances of said city, and shall enforce the collection of all

tines and penalties that arise aforesaid, in such manner as said council by ordinance shall provide.

SEC. 6. Be it further enacted, That it shall be the duty of the mayor to see that the ordinances of the city are faithfully executed, to recommend for appointment all necessary city officers, and to report them for removal whenever the interests of the city may require it; when present he shall preside at all meetings of the council, and propose such measures as he may think important to the interests of the city; but on any question taken shall only be entitled to a casting vote: and he shall have power to convene the council whenever it may be deemed necessary. He shall have, possess, exercise and enjoy all the powers and privileges, and be subject to and discharge all the duties of a justice of the peace. It shall be his duty to attend and take his seat in the county court of his county, at the first session thereof in each and every year; and within the limits of said city he shall have jurisdiction in all civil cases, wherein the amount shall not exceed fifty dollars, with right of appeal to either party, from his decision as from that of a justice of the peace.

SEC. 7. Be it further enacted, That the mayor and two aldermen, or the mayor *pro tempore*, and two aldermen or three aldermen shall form a quorum for the transaction of all business: They may compel the attendance of absent members, under such pains and penalties as may be prescribed: Judge of the qualifications of members, and of the sufficiency, correctness, and regularity of election returns; settle their own rules of proceeding, and upon recommendation of the mayor, appoint and remove all officers; fix their compensation, and establish such fees as may or ought to be allowed for such services as may be required of them, their meetings shall be public; and they shall cause a journal of their proceedings to be kept, and regularly authenticated by the signature of the mayor and clerk, which shall be kept open for the inspection of all who may be interested in the proceedings of said council. The yeas and nays upon any question shall be entered upon their journals, upon a call of any two members; they shall make public all their ordinances and resolutions before they shall have force and efficacy, by publishing them in some newspaper printed in the city, or by posting written copies thereof in two or more public places therein.

SEC. 8. Be it further enacted, That if the said mayor shall at any time be absent from said city, shall be sick and unable to attend the council; or for any cause shall become incapable of performing the duties of his said office, then in every such case, the said alderman shall be empowered and it shall be their duty, in council by ballot, and by a majority of their votes to elect one of their number to be mayor *pro tempore*, who during the absence, sickness or incapacity of the said mayor, and

Vacancy how filled.

until he shall resume his seat in said council, shall be vested with all the powers and privileges, and be liable to, and discharge all the duties of mayor of said city.

**SEC. 9.** Be it further enacted, That all white male inhabitants being citizens of the United States and of the age of twenty-one years, who shall have resided within said city, at least one year, immediately preceding the day of election, or who having, landed estate in said city, do occasionally reside therein, shall be entitled to vote for mayor and alderman; but no person shall be eligible to the office of mayor or alderman, who is not at the time of his election a freeholder in said city, nor shall any such mayor or alderman be entitled to, or receive any salary, or other compensation, from said city for the discharge and performance of the duties of his office, all votes at city elections shall be given by ballot.

**Inspectors of elections.** **SEC. 10.** Be it further enacted, That every city election shall be conducted by three inspectors, to be appointed at least two weeks before the day of election by the mayor, the said mayor shall also appoint the place of holding the election and, give public notice thereof for the like period of time.

**duties of inspectors.** **SEC. 11.** Be it further enacted, That the said inspectors shall be judges of the qualifications of voters, and it shall be their duty, or the duty of any two of them, on the day appointed by law for holding the election to open the poll for the reception of votes; and to cause the names of voters to be recorded in a book, to be kept for that purpose, which shall be deposited at the close of each election amongst the archives of the corporation; the polls shall open at nine o'clock in the morning, and close at five o'clock in the afternoon, after the inspectors shall proceed to count the votes and shall declare the persons elected as mayor and alderman who respectively shall have received the greatest number of votes, but if by reason of a tie between any two or more candidates, an election of mayor, or if the prescribed number of alderman, shall not be made, then in every such case, a new election to fill the vacancy or vacancies, thus occasioned shall be ordered and held, in like manner as is prescribed in the thirteenth section of this act. And the said inspectors shall make out a written certificate thereof, at the foot of the poll list, and deliver a copy thereof, within twenty-four hours to the mayor elect, who on the receipt of the same, and within five days from the day of his election, shall signify his acceptance or refusal.

**Oath of mayor.** **SEC. 12.** Be it further enacted, That if the said mayor elect shall signify his acceptance of said office, the mayor, shall as soon as practicable at any time within five days after the election, assemble the council, and in their presence administer to him the following oath, "I A B do solemnly swear (or affirm) that I will, to the utmost of my power, support, advance, and defend the interest, peace, and good order of the City of St. Augus-

time, and faithfully to discharge the duties of mayor of said city during my continuance in office: and I do further swear, that I will support the constitution of the United States," and the said oath of office, on neglect of the said mayor, may be administered by a judge or justice of the peace; and the mayor elect upon being qualified, shall then administer the like oath to the aldermen elect; and thereupon the duties of the former council shall cease.

SEC. 13. Be it further enacted, That if the mayor elect or ~~any~~ of the alderman, shall decline to accept the office to which he or they may have been elected, or if accepting, any, or either of them, shall not qualify by taking the prescribed oath, within five days after his election, that then the mayor in office, or the person exercising the duties thereof, shall by proclamation, direct an election to be held for supplying such seat or seats in the council as may be vacant, giving at least one weeks notice thereof, designating at the time, the persons appointed to superintend and conduct the said election.

new elections when held.

SEC. 14. Be it further enacted, That if the office of mayor or of any alderman, shall at any time become vacant by death resignation, removal, or otherwise, it shall be the duty of the mayor, or the person exercising the duties of mayor agreeably to this act, in like manner as is provided in the preceding section, to order a new election to fill such vacancy.

resignation of mayor.

SEC. 15. Be it further enacted, That the mayor and alderman, now in office, shall be continued therein until the next regular period of election, and if from any circumstance an election should not be held on the regular day of election, the mayor and alderman then in office shall be continued therein until others shall be elected and duly qualified.

continuance in office.

SEC. 16. Be it further enacted, That, it shall be the duty of the said council, when the said city shall be free from debt, annually to reserve and appropriate one fourth of all the taxes collected in and for the said city, or so much of one fourth thereof as shall remain after paying and discharging all the current expences of said city. The said reservation and appropriation always to be made, with the view and for the purpose of creating a fund for the support of a free school in said city, and whenever and so often from time to time, as said reservation and appropriation, shall amount to two hundred dollars, the same shall be deposited in some secure bank for safe keeping, but it shall be the duty of said council, always, as soon as practicable, to cause all moneys thus deposited to be converted into bank stock for said city, to be held by said city in trust for the use of a free school therein.

school fund.

SEC. 17. Be it further enacted, That the said council shall have power to establish a free school in said city, to be regulated and governed in such manner as by city ordinance shall be directed whenever the establishment of such school shall have

free school may be established.

been first directed by a vote of two thirds of the legal voters of said city, in public meeting assembled upon four weeks previous public notice of the time and place and object of such meeting said notice to be given in any newspaper printed in said city or by posting the same in writing, in two or more public places therein. And the said council shall have power, to appropriate and apply to the use and support of said free school, from time to time, all interests or dividends which shall accrue from, or be made upon said bank stock, all rents and profits of lands or real estate belonging to the said city, for which purpose the said council shall be empowered to lease the same from year to year; and all contributions of every description which may be made in aid of said free school.

Rep. clause:

SEC. 18. Be it further enacted, That the act "entitled" an act to incorporate the City of St. Augustine approved February 11th 1831 be and the same is hereby repealed; but all laws ordinances and resolves in force at the repeal of said act, shall continue to be in force until altered, amended or repealed; and all fines penalties and forfeitures that have accrued under said act may be recovered in the same manner, as if the said act hereby repealed was still in force.

SEC. 19. Be it further enacted, That this act shall have effect and be in force from the date of its approval.

*Passed Jan. 26. 1833.*

*Approved Feb. 4. 1833.*

[~~see~~ chap. 175, Chapt. 709 [No. 52] AN ACT to incorporate the city of Pensacola, and to repeal the act entitled an act to incorporate the city of Pensacola, and improve the public roads in the neighborhood thereof, approved 5th December 1825.]

preamble.

boundaries of  
city.

Be it enacted by the Governor and Legislative council of the Territory of Florida, That all free white inhabitants of that part of the county of Escambia, comprehended within the following boundaries, that is to say, bounded on the south and east, by the harbour of Pensacola, on the west, by bayou chico, on the north, by a line drawn north and east, from Galvey spring, to where the said line will intersect the bayou texar, thence with the said bayou to Pensacola bay, shall be, and they are hereby constituted a body politic, and corporate, by the name and style of the city of Pensacola, and by their corporate name, may sue and be sued, implead, and be impleaded, grant, receive and do all other acts as natural persons, and may purchase and hold real, personal, and mixed property, or dispose of the same, for the benefit of the said city, and may have and use a city seal, which may be broken or altered at pleasure.

SEC. 2. Be it further enacted, That the government of the city shall be vested in a person to be called the mayor, and in a board of aldermen, to be elected in the manner, by the persons and at the time hereinafter directed.

mayor and al-  
dermen.

SEC. 3. Be it further enacted, That all free white male inhabitants, of the age of twenty one years, and upwards, who have resided six months in the city, next preceding the day of election, who shall be housekeepers, or who shall pay a poll tax, of one dollar to the corporation, shall be qualified to vote at the election of mayor and aldermen of said city: That the election shall be held on the first Monday of April in every year, by three commissioners, to be appointed by the board of aldermen at least ten days before the day of each election.

qualifications of  
voters.

SEC. 4. Be it further enacted, That all free white male citizens of the United States, of twenty-five years or upwards, who shall be housekeepers, and who shall have resided one year in the city, next preceding the day of election, shall be eligible to the office of mayor or aldermen: Provided, That nothing in this act contained, shall be construed to deprive of their rights and privileges, such persons as were inhabitants of this Territory, at the time of the change of government.

Qualifications  
mayor and al-  
dermen.

SEC. 5. Be it further enacted, That the whole number of aldermen elected, shall be seven, and that the said election of mayor and aldermen, shall be made by ballot, and shall be held at such place within the city as the said commissioners shall appoint.

number of al-  
dermen.

SEC. 6. Be it further enacted, That the board of aldermen shall have power to fill vacancies in their own body, by causing elections to be made in the manner hereinafter directed, out of the citizens qualified to fill the said office.

vacancies how  
filled.

SEC. 7. Be it further enacted, That the mayor and aldermen shall in all cases, continue to exercise their respective functions, until their successors be elected and qualified to serve.

officers to re-  
main in office  
until successors  
are qualified.

SEC. 8. Be it further enacted, That the board of aldermen, shall within five days after their election, convene at such place as the mayor may appoint, and proceed to the election by ballot, of a person to be called the president of the board of aldermen: Whereupon the said president, shall administer to the mayor, and afterwards to the other aldermen respectively, the following oath or affirmation: - I, A. B. do solemnly swear, that I will to the utmost of my power, support, advance and defend the good order, peace, and welfare of the city of Pensacola, and its inhabitants, and will faithfully demean myself in the office of mayor, (or alderman, as the case may be,) of the said city, according to the by-laws and regulations thereof, according to the best of my skill and judgment: And I do swear (or affirm, as the case may be) that I will support the constitution of the United States, and a like oath shall then be admin-

Board when  
convened.

istered by the mayor, to the president of the board of aldermen.

mayor to have  
powers of a jus-  
tice.

SEC. 9. Be it further enacted, That the mayor or person exercising the powers of mayor of said city, shall with the advice and consent of the board of aldermen, appoint all city officers ; he shall within the limits of said city, have and exercise all the powers of a justice of the peace, and shall have jurisdiction in all sums not exceeding one hundred dollars ; he shall hold regular terms of his court, on the third Monday of each and every month, and the secretary of the board of aldermen, shall keep and preserve a record of all the proceedings of said court ; the mayor shall be entitled to receive for his services such fees as are allowed justices of the peace ; and the secretary shall receive for his services, such fees as are now allowed the clerks of the superior, and county courts.

fees of jurors.

SEC. 10. Be it further enacted, That whenever a party requires it, the said court shall issue a *venire facias* to the executive officer of the court, to summon twelve jurors, who shall be entitled to the sum of three dollars for each and every case that may be decided by them.

process how di-  
rected.

SEC. 11. Be it further enacted, That all process of said court, shall be directed to the city marshal, and the said city marshal before he enters upon the duties of his office, shall enter into bond, with good and sufficient security, to be approved by the board of aldermen, in the sum of five hundred dollars, payable to the mayor of said city, and his successors in office, condition for the faithful discharge of the duties of his office, and the payment to the proper persons of all monies that may be collected by him, in and by virtue of his office, and the said city marshal, shall have authority to sell under execution, slaves, and real estate, under the same rules, regulations and restrictions, as are now prescribed for the government of marshals, sheriffs, and other officers, by law, or that may be hereafter prescribed by the legislative council.

appeals maybe  
taken.)

SEC. 12. Be it further enacted, That whenever any party shall consider himself aggrieved by the decisions of the said mayor or his court, shall have authority to take an appeal to the superior court, of the Western District of Florida, sitting in Escambia county, in the same manner as is prescribed for taking appeals from the decisions of a justice of the peace.

Compensation  
of mayor

SEC. 13. Be it further enacted, That no salary shall be allowed to the mayor of the city, but the board of aldermen shall have power to allow him a reasonable amount not exceeding one hundred and fifty dollars per annum, for office rent, stationary &c. And the secretary of the board of aldermen, shall be allowed for his services not exceeding the sum of two hundred dollars.

SEC. 14. Be it further enacted, That the said board of aldermen, shall constitute a board of health for said city ; and as such board of health shall have power to appoint the necessary

officers, and to enforce and carry into effect all laws of the legislative council, and of the said board of aldermen, regulating the quarantine of vessels, and for the preservation of the health of said city.

SEC. 15. And be it further enacted, That the said board of aldermen shall have power to appoint commissioners, to select a quarantine ground for the harbour and bay of Pensacola, and to pass all necessary laws to prevent the introduction of contagious diseases into said city: Provided, That no law shall be passed whereby vessels coming to the port of Pensacola, after the twenty-fifth day of October in each and every year, shall be subjected to quarantine.

SEC. 16. Be it further enacted, That two thirds of the members of the board of aldermen shall be a quorum to do business, but a smaller number may adjourn from day to day; they may compel the attendance of absent members, in such manner, and under such penalties as they may by ordinance provide, they shall settle their rules of proceedings, appoint their own officers, regulate their respective fees, and remove them at pleasure; they shall judge of the election returns, and qualifications of their own members, and may with the concurrence of three fourths of the whole, expel any member for disorderly behaviour or misconduct in office, but not a second time for the same offence, they shall keep a journal of their proceedings, and enter the yeas and nays on any question, resolve, or ordinance, at the request of any two members, and their deliberations shall be public, and all ordinances or acts passed by the board of aldermen, shall be submitted to the Mayor for his approbation, and when approved by him shall be obligatory as such, but if the mayor shall not approve of such ordinance or act, he shall return the same within five days, with his reasons in writing therefor, and if two thirds of the board of aldermen, on reconsideration thereof approve of the same, it shall be in force in like manner as if he had approved it: Provided however, That no ordinance of said board of aldermen shall go into operation, until the same shall have been published in a newspaper printed in the city of Pensacola, or by posting up a copy thereof in three of the most public places in the city.

SEC. 17. Be it further enacted, That it shall be the duty of the mayor to see, that the ordinances of the corporation be duly executed, and shall report the negligence or misconduct of any officer to the board of aldermen, who on satisfactory proof thereof may remove from office the said delinquent, or take such other measures thereupon as shall be just and lawful; he shall have power to convene the board of aldermen, when in his opinion the public good may require it, and he shall lay before the board from time to time in writing, such alterations in the laws of the corporation, as he shall deem necessary and proper.

May appoint commissioners

quorum.

duties of mayor

SEC. 18. Be it further enacted, That the corporation aforesaid, shall have full power and authority to pass all by-laws and ordinances, to prevent nuisances, and remove them, and to pass all necessary laws, imposing fines and penalties for violations of their quarantine regulations, to establish night watches, and patrols, and erect lamps, to regulate the stationing anchorage and mooring of vessels, to provide for licensing and regulating auctions, retailers of liquors, billiard table keepers, carriages, waggons, carts, and drays, to provide for licensing, regulating or restraining theatrical or other public amusements, within the city, to regulate and establish markets, to erect and repair bridges, workhouses, houses of correction, and other public buildings, to keep in repair all necessary streets, drains, and sewers, and to pass regulations necessary for the preservation of the same, to provide for the safe keeping of the standard of weights & measures fixed by congress; to regulate burying grounds; to provide for the licensing & regulating the sweeping of chimneys, & fixing the rates thereof; to establish & regulate fire wards, & fire companies; to establish and regulate the size of, bricks that are to be made and used in the city; to sink wells, and to erect and repair pumps in the streets; to control and regulate the use of the springs in the city; to establish and regulate the inspection of tobacco, cotton, and salted provisions, and other articles, the gauging of casks and liquors, and storage of gun power, and all naval and military stores, to regulate the weight and quality of bread, to tax and license hawkers and pedlars; to restrain or prohibit tippling houses, and lotteries; to preserve the navigation of the harbour and bay adjoining the city; to erect, repair, and regulate public wharves, and to deepen docks and basins; to provide for the establishment and superintendance of public schools; to regulate and license ordinary keepers, retailers and ferries; to provide for the appointment of all such officers as may be necessary to execute the laws of the corporation, and to affix their compensation: Provided, that no law or ordinance shall be passed granting a salary, per diem allowance, or fees to the members of the board of aldermen; to open, extend, alter, regulate and pave the streets, within the limits of the said city, and to remove all old and decayed buildings, or ruins therein: Provided, they make to the person or persons who may be injured by such extension or alteration of the street, or by the removal of such buildings or ruins, just and adequate compensation, to be ascertained by a verdict of an impartial jury to be summoned for that purpose, out of the funds of the corporation, or by assessment, upon such persons, & in such manner as the said board of aldermen may direct; which said jury shall be summoned by the sheriff of the county of Escambia, or his deputy, by virtue of a precept from the mayor of said city; from among the disinterested persons residing within the said city, who shall be qualified to serve as jurors in the courts

powers of corporation.

of this Territory, and who, previous to entering upon their duty, shall be sworn faithfully to perform the duties assigned them; to borrow money for the use of the city: Provided, the sum borrowed, shall not in any year exceed three thousand dollars, nor a greater rate of annual interest to be paid therefor, than six per cent. to provide for the support of the poor, infirm, diseased, and insane of the city, to lay and impose taxes, and provide for the collection thereof: Provided that no tax shall be imposed on real property in the city, at any higher rate than three quarters of one per centum, on the assessment valuation of such property, to impose and appropriate fines, penalties, and forfeitures for each of their ordinances, to restrain and punish offences, committed by negroes and people of colour, to pass all ordinances necessary, to give effect and operation to all the powers vested in the corporation: Provided, that the by-laws or ordinances of the corporation, shall be in no wise obligatory, upon the persons of nonresidents of said city, unless in cases of intentional violations of the by-laws or ordinances, previously promulgated: And provided further, that no law or ordinance shall be passed by said corporation, repugnant to the constitution or laws of the United States, or the laws of this Territory.

SEC. 19. Be it further enacted, That the said corporation shall have full power and authority to keep in repair all public roads, leading to the city, for the extent of three miles therefrom, and within the same distance to establish and regulate ferries, and <sup>power of cor.</sup> may levy a tax for these purposes, in such manner and under such regulations, as they may conceive least burdensome to the citizens, and best calculated for the general good and welfare of the city.

SEC. 20. Be it further enacted, That the commissioners appointed by the board of aldermen, to hold an election, shall be judges of the qualifications of voters, and it shall be their duty, or the duty of any two of them, on the day appointed by this act for holding the election, to open a poll for the reception of votes, and to cause the names of the voters to be recorded in a book to be kept for that purpose, which shall be deposited, at the close of each election, amongst the archives of the corporation. The poll shall be opened at nine o'clock in the morning, and close at five o'clock in the afternoon, after which time, the inspectors shall, proceed to count the votes, and declare the person elected as mayor, and aldermen, who respectively, shall have received a plurality of the votes taken, and the said commissioners shall make out a written certificate thereof, at the foot of the poll list, and deliver a copy thereof, within twenty four hours, to the mayor elect, who on the receipt of the same, and within five days from the day of his election, shall signify his acceptance or refusal.

SEC. 21. Be it further enacted, That in case no election shall be held from unavoidable cause, at the time pointed out

when no election is helden. by this act, the charter of the corporation, shall not on that account, be forfeited, but it shall be the duty of the mayor to name another day for holding the election as near as convenient to the one pointed out by this act, and which said election shall be as valid and legal as if the same had been held at the proper time.

resignation of may. SEC. 22. Be it further enacted, That in case of the absence, death, or resignation, of the said mayor, the president of the board of aldermen, shall have and exercise all the powers, and perform all the duties of mayor of said city.

contracts how made. SEC. 23. So it further enacted, That it shall not be lawful for the mayor or any alderman, to be concerned directly or indirectly, in any contract whatever, in which the city of Pensacola is or may be interested, but all such contracts which may be entered into for, or in behalf of the corporation, shall be put up at auction to the lowest bidder.

clerk and mar- chal. SEC. 24. Be it further enacted, That it shall be the duty of the mayor and board of aldermen of said city, to appoint some suitable person to be called the clerk of the market, whose duty it shall be to keep a book in which shall be recorded the marks and brands of all cattle, which may be sold as beef cattle, to any butcher, or other person or persons residing in said city, and the said mayor and aldermen, shall have power to fix the compensation of the said clerk of the market, and to impose on the vendors and purchasers of said beef cattle, such penalty as they deem proper, for any refusal or neglect to have such marks and brands, of such beef cattle duly recorded.

port wardens. SEC. 25. Be it further enacted, That hereafter there shall be appointed by the governor, by and with the advice and consent of the legislative council, five port wardens, for the port and harbour of Pensacola, and the said port wardens, or a majority of them, shall have full power to appoint and remove pilots in said harbour, and regulate the pilotage thereof, and shall have and exercise all such other powers, and duties as customarily belong to port wardens in other ports.

Rep. clause. SEC. 26. Be it further enacted, That an act entitled an act to incorporate the city of Pensacola, and improve the public roads in the neighborhood thereof, approved 5th Dec. 1825, be, and the same is hereby repealed, but all laws or ordinances and resolves in force at the repeal of said act, shall continue to be in force until altered, amended or repealed, and all fines, penalties, and forfeiture, that have accrued under the by-laws, and ordinances of said corporation, shall be collected in the same manner as if the above recited act had not been repealed: Provided, that such repeal shall not be construed to vacate the offices of the present mayor and aldermen of said city, but the said mayor and aldermen shall continue to have and exercise their said offices, until the day prescribed by this act, for a new election, and that this act shall be in force from and after its approval. Passed Feb. 9th 1833. Approved Feb. 15. 1833.

CHAP. 710 [No. 53.] AN ACT, to amend the several acts incorporating the town of Apalachicola and for other purposes.

Intendant not to act as justice

Be it enacted by the Governor and Legislative Council of the Territory of Florida, That the intendant of the town of Apalachicola, shall not be vested with the power of a justice of the peace, as authorised in the law to which this is an amendment.

SEC. 2. Be it further enacted, That the intendant and town council of said town of Apalachicola, shall have full power to appoint weigh masters, and regulate their fees, and may remove them from office at any time, when they may see proper to do so, and shall have power to enforce any and all of their ordinances, (not conflicting with the constitution, and laws of the United States, or of the laws of this territory) by fine and imprisonment, or either, provided the fine shall in no case exceed one hundred dollars, or the imprisonment three months.

SEC. 3. Be it further enacted, That the acts of Abraham K. Allison and Adolphus Heine as deputy clerks of the county courts of Franklin County, be and the same are hereby declared legal.

powers of intendant and councilmen.

SEC. 4. Be it further enacted, That it shall be the duty of the Governor, by and with the advice and consent of the Legislative Council; to appoint annually four fit and proper persons, as port wardens, port-wardens of the town of Apalachicola, who shall have and how appointed exercise all the rights and privileges of port wardens.

SEC. 5. Be it further enacted, That the a t entitled an act, o establish and organise the court of common pleas, oyer and terminer of the town of Apalachicola-approved February the 7th t831 be and the same is hereby repealed, and that it shall be the dissolved. duty of the clerk of said court forthwith to deliver to the clerk of the superior and county courts of Franklin County respectively, all writs and other papers belonging or appertaining to all suits in said court, as said court by the existing laws of this territory shall have jurisdiction of the same.

Passed Feb. 15, 1833.

Approved Feb. 16. 1833.

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CHAP. 711 [No. 54.] AN ACT in addition to the several acts concerning the City of Tallahassee.

Be it enacted by the Governor and Legislative Council of the Territory of Florida, That the city council of the City of Tallahassee, shall be and they are hereby authorised to lay off four lots in McCarty street to be appropriated for the purpose of erecting houses of public worship, to be granted to such congregations, as shall make application for the same, conditioned

to be used and applied only to such purposes. Provided, That nothing herein contained shall authorise the building of any church in that part of the street immediately south of the court house square.

Passed Feb. 15th 1833.

Approved Feb. 17th 1833.

CHAR 712 [No. 55] AN ACT to incorporate Senybal and Murray towns.

Be it enacted by the Governor and Legislative Council of the Territory of Florida, That all the free white inhabitants of the town of Senybal and Murray at Charlotts harbour in the said incorporation, shall be and they are hereby in their respective towns constituted bodies politic and corporate, by the names and style of the president and councilmen of the town of Seaybal and Murray and by their corporate names may sue and be sued, plead and be impleaded, grant and receive and do all other acts, as natural persons, and may purchase and hold real, personal and mixed property, or dispose of the same for the benefit of said towns of Senybal and Murray, and may have and use town seals which may be broken or altered at pleasure.

SEC. 2. Be it further enacted, That the government of each of said towns shall be vested in a person to be called a president and in a board of councilmen to be elected in the manner by the persons and at the time hereinafter directed.

SEC. 3. Be it further enacted, That all free white male persons, over the age of twenty one years, who shall have resided qualification of within the limits of the aforesaid towns, one whole month previous to the day of election, shall have a right to vote for seven town councilmen in each of said towns, that said election shall be held on the first Monday of June in the present year, at such place as the said inhabitants may appoint, and at the same time thereafter annually as the council for the time being may appoint and the votes shall be given by ballot.

SEC. 4. Be it further enacted, That said town councilmen of each of said towns, shall have power to elect from their own bodies a president, and not less than three of their own body shall be necessary to transact business and shall meet at such times and places within the limits of the aforesaid towns as they may deem necessary.

SEC. 5. Be it further enacted, That the said councilmen of said towns, shall have power and full authority to prevent and remove nuisances, to license, and regulate retailers of spirituous liquors, to restrain and prohibit all sorts of gaming, to establish and regulate markets, the safe keeping of weights and measures.

Government how vested.

president how elected.

powers of council men.

to provide for and regulate streets, squares and lots, and the erection of fences and other structures, to commission and license weighers, to regulate patrols, to restrain and punish vagabonds and disorderly persons, to erect and keep wharves, to appoint pilots and regulate pilotage for said towns, their harbours and the entrances into the same, to regulate the anchorage and mooring of vessels in the same, to tax and license hawkers and pedlars, or transient traders, and generally to provide for the interior police and good government of said towns.

SEC. 6. Be it further enacted, That the councilmen of each of said towns shall have power and authority to enforce all laws of the Legislative Council of this Territories, and of their own body, regulating the quarantine of vessels, and for the preservation of the health of said town, and shall have the power to appoint a health officer and such other officers, as shall be deemed necessary to carry into effect, all their laws and ordinances, and shall allow them such compensation as they may deem proper and right for their services.

SEC. 7. Be it further enacted, That the councilmen of each of said towns, shall have power, to levy a poll tax, not to exceed one dollar on each poll to go towards the maintenance of the corporation of each town respectively.

SEC. 8. Be it further enacted, That all ordinances and laws of said councilmen of said towns, shall be posted up in three of the most public places in each of said towns at least three days before they shall take effect.

SEC. 9. Be it further enacted, That said town councils shall have power to fill all vacancies that may happen in their own body during the recess of their annual election, and shall in all cases hold their respective offices until their successors are duly qualified and elected into office according to the provisions of his act.

SEC. 10. Be it further enacted, That each of the presidents of the councils of said towns, shall within the limits of their respective towns beforementioned, have and exercise all the powers and shall be entitled to receive all the fees and emoluments of a justice of the peace of this territory.

SEC. 11. Be it further enacted, That if the said free white inhabitants shall not choose to avail themselves of the provisions of this act, the same shall be deemed and taken as of no force and in-operative,

SEC. 12. And be it further enacted, That nothing herein contained shall be construed as providing for a joint government of said towns, but that the government of each of the same shall be deemed and taken to be entirely distinct.

Passed Feb. 17. 1833.

Approved Feb. 17, 1833.

may appoint  
board of health

may levy taxes

Ordinances to  
be posted up.

vacancies to be  
filled.

intendant to act  
as justice.

this law how  
annulled.

how construed

## CHAP. 713 [No. 56] AN ACT declaring cold water creek in Escambia County a navigable stream.

Cold Water Creek declared navigable.

Be it enacted by the Governor and Legislative Council of the Territory of Florida, That the creek situated in Escambia County, and known by the name of cold water, discharging its waters into Blackwater river, as laid down on the map of Florida, is hereby declared, and is hereafter to be recognised in law as a navigable stream, at least as high up said creek as the junction known by the name of the eastern and western prongs of said creek.

Impediments may be removed.

SEC. 2. Be it further enacted, That it shall not be lawful to erect any bridge or other impediments across said creek, or to make any obstruction therein by which the free navigation thereof may be obstructed, and all such bridges impediments or obstruction, are hereby declared common nuisances, and may be proceeded against and removed as such, and if any person or persons shall raise, erect or build, any such bridge or impediment, he or they shall be liable for double the damages sustained by any person or persons, by reason therof; and shall also be liable to indictment for a misdemeanor, and on conviction thereof for every such offence, shall be punished by a fine not exceeding five hundred dollars. Provided, however, That this act shall not prevent the erection of any bridge, or other works, which shall not obstruct the free navigation of said creek, for boats drawing three feet water, or for rafts of timber or lumber of every description whatsoever.

when in force. SEC. 3. And be it further enacted, That this act shall be in full force from and after its passage.

Passed Feb. 2d 1833.

Approved Feb. 9th 1833.

## CHAP. 714 [No. 57.] AN ACT to declare Ochlawaha river, in the county of Alachua and St. Johns, a navigable stream.

commissioners

Be it enacted by the Governor and Legislative Council of the Territory of Florida, That Ochlawaha river, running through the counties of Alachua and St. Johns, is hereby declared, and hereafter to be recognised in law, as a navigable stream, up to its sources near to the Seminole agency.

Obstructions may be removed.

SEC. 2. Be it further enacted, That John F. M'Intosh, John Mizell, Gad Humphries be, and they are appointed commissioners, who, or a majority of them, shall have full power, and authority, to direct and superintend the opening and removal of any obstructions in said river; and they are hereby declared, to have full power and authority to do and perform, all acts and doings, that shall become necessary to effect the same.

Sec. 3. Be it further enacted, That it shall not be lawful to erect any bridge or other impediment, across said river, or make any obstruction therein, by which the free navigation thereof may be obstructed; and all such bridges, impediments, or obstructions, are hereby declared common nuisances, and may be proceeded against, and removed as such, and if any person or persons shall raise, create, or build any such bridge, impediment, or obstruction, he or they shall be liable to double the damages sustained by any person or persons, by reason thereof, and shall also be liable to indictment for a misdemeanor, and on conviction thereof, shall be punished by fine not exceeding five hundred dollars: Provided, however, that this act shall not prevent the erection of any bridge or other works, which shall not obstruct the free navigation of said river, for boats laden with cotton or other produce.

Passed, Feb. 11th 1833.

Approved, Feb. 16th. 1833.

CHAP. 715 [No. 58] AN ACT to establish a ferry across Suwannee river.

Be it enacted by the Governor and Legislative Council of the Territory of Florida, That Paul M'Cormic be, and he is hereby authorised and vested with the right, and charged with the duty of keeping a ferry, for the term of five years across the Suwannee river, near the mouth of Withlaucoochy river. *right of ferry.*

Sec. 2. Be it further enacted, That it shall be the duty of the said M'Cormic, to keep a sufficient number of boats for the accommodation of passengers, and should he fail to do so for the space of three months, all the right vested by this act, shall cease and be forfeited.

Sec. 3. Be it further enacted, That if any person shall attempt to keep a ferry, or transport any person or property, across the Suwannee river, within five miles of said ferry, and receive therefor any compensation, either directly or indirectly, such person or persons, for every such offence, shall forfeit and pay to the said M'Cormic, or his assignee, the sum of ten dollars, to be recovered in any competent court of the Territory. *Penalty for keeping boats.*

Sec. 4. Be it further enacted, That the said Paul M'Cormic shall be entitled to charge and receive such ferrage, and be subject to such regulations, as shall be established by the county court of Columbia county. *Tolls may be charged.*

Passed Jan. 15, 1833.

Approved Jan. 19, 1833.

## CHAP 716 [No 59.] AN ACT to establish a ferry across the Withlaucoochy

**Ferry granted for six years.** Be it enacted by the Governor and Legislative council of the Territory of Florida, That Appleton Roseter is hereby vested with the right and power of establishing a ferry, and charged with the duty of keeping the same in repair, across the Withlaucoochy river, at the place known by the name of Roseter's ferry, in Hamilton county; and the said Appleton Roseter shall continue in the enjoyment of said ferry, for and during the term of six years; Provided, the said Roseter, shall so long keep the said ferry in good repair.

**Exclusive right of ferrage.** SEC. 3. Be it further enacted, that it shall be unlawful for any other person or persons, to keep a ferry within two miles of said ferry on the river Withlaucoochy, except it be for his or her own use, and not for the purpose of gathering toll.

**Boats to be kept.** SEC. 3. And be it further enacted, That it shall be the duty of the said Appleton Roseter, his heirs and assigns, to keep at all times a good and sufficient flat or craft, of sufficient size, to cross a wagon and team, and that he shall be entitled to receive such toll as may be fixed by the county court of Hamilton county, and be subject to the order of said court, or any future Legislative Council of this Territory.

*Passed January 22, 1833.*

*Approved Jan. 25, 1833.*

## CHAP. 717 [No. 60.] AN ACT to establish a ferry over the Wakulla river at St. Marks.

**ferry over Wa-kulla.**

Be it enacted by the Governor and Legislative Council of the Territory of Florida, That Ambrose Crane be, and he is hereby vested with the right and privilege, of establishing a ferry; and charged with the duty of keeping the same in repair, across the Wakulla river, at St. Marks, in Leon county; and the said Ambrose Crane shall possess the right of keeping said ferry, for the term of ten years: Provided, the said Ambrose Crane shall keep the said ferry in good order and repair, for the safe crossing of all persons, and such vehicles as travel the roads to the same.

**Exclusive right of ferrage, rates of.** SEC. 2. And be it further enacted, That it shall not be lawful for any other person to establish, or keep a ferry on the Wakulla river, within two miles of St. Marks, except it be for his own use, and not for the purpose of gathering toll.

SEC. 3. And be it further enacted, That the said Ambrose Crane shall be, and he is hereby authorised to charge, and receive the following rates of toll, at said ferry viz: For the crossing of every foot person, six and one forth cents; man and

horse, twelve and a half cents; Jersey wagon, cart, or gig, twenty-five cents; Four wheel pleasure waggon, or waggon, fifty cents; and if any person charged with the keeping of said ferry, shall charge and receive more than the rates of toll allowed by this act, he shall be subject to be fined in any sum not exceeding five dollars, at the discretion of any justice of the peace, in Leon county, before whom satisfactory evidence of the fact may be made.

SEC. 4. And be it further enacted, That Augustus Alston, John Blair Peachy, Robert Sturges, Frederick Weedon, and Thomas Jefferson Green, be, and they are hereby appointed commissioners; any three of whom are hereby authorised to act, to locate and designate the said ferry landings; and are also authorised to mark and lay out a road from the landing, to be designated, on the west side of the river, to intersect the old road, which passes from St. Marks, to the Shellpoint settlement, which road, when marked and laid out, shall be considered a public road.

*Passed Jan. 14th. 1833.*

*Approved, Jan. 25th, 1833.*

commissioners

**CHAP 716 [No 61] AN ACT to authorise John M. Wright to establish a ferry on the Ocklocknee river.**

Be it enacted by the Governor and Legislative council of the Territory of Florida. That John M. Wright be, and he is hereby vested with the right and privilege of establishing a ferry, and charged with the duty of keeping the same in repair, across the Ocklocknee river, at or near the place, known as the lime spring on the said river; and the said John M. Wright, his heirs and assigns, shall continue to possess the right of said ferry, for and during the term of five years: Provided, the said John M. Wright shall keep the said ferry in good repair.

SEC. 2. And be it further enacted, That it shall be unlawful for any other person or persons, to establish or keep a ferry within three miles of said ferry, on said river, except it be for his or their use, and not for the purpose of gathering toll.

SEC. 3. And be it further enacted, That it shall be the duty of the said John M. Wright, his heirs, and assigns, to keep at all times a good and sufficient flat, or other craft, of sufficient size to cross a waggon and team, and that he shall charge and receive such toll or ferriage, as is charged or allowed at any other ferry on said river, or which may be established by any future legislature of this Territory.

*Passed Feb 12, 1833.*

*Approved Feb. 15. 1833.*

exclusive right

good boats to  
be kept.

CHAP. 719 [No. 62.] AN ACT to revive and continue in force, an act establishing a ferry over St. Johns at Jacksonville.

Be it enacted by the Governor and Legislative Council of the Territory of Florida, That the act entitled an act establishing a ferry over the river St. Johns at Jacksonville approved Dec. 29 1824, be and the same is hereby revived and continued in force for the term of five years, commencing from and after the twenty-ninth day of December which will be in the year 1834,

*Passed Feb. 15. 1833.*

*Approved Feb. 16. 1833.*

CHAP. 720 [No. 63.] AN ACT to authorise Josiah A. Coffee and Francis Faulk to establish a ferry across St. Johns at Jacksonville.

Be it enacted by the Governor and Legislative Council of the Territory of Florida, That Joshua A. Coffee and Francis Faulk, be and they are hereby vested with the right of establishing a ferry and charged with the duty of keeping the same in repair across the St. Johns river on a place known by the name of the horse landing on the eastern margin of said river in the county of Duval; and the said Joshua A. Coffee and Francis Faulk shall continue in the enjoyment of said ferry, for and during the term of seven years; Provided they shall so long keep the said ferry in good repair.

*Exclusive right* SEC. 2. Be it further enacted, That it shall not be lawful for any other person or persons to establish or keep a ferry across said river within five miles of said ferry, except it be for his, her, or their own use, and not for the purpose of receiving or gathering toll.

SEC. 3. Be it further enacted, That it shall be the duty of the said Joshua A. Coffee and Francis Faulk, or their heirs and assigns, to keep at all times, a good and sufficient flat, of sufficient size to cross a wagon and team, also a sufficient number of canoes and boats, and that they shall be entitled to receive such toll, as may be fixed by the county court of Duval county, and be subject to such rules and regulations as said court may prescribe, in relation to the government of said ferry.

*Passed Feb. 14, 1833.*

*Approved Feb. 16, 1833.*

CHAP. 721 [No 64] AN ACT, to amend an act to, authorize the disposition and sale, of certain lands, belonging to the heirs of John Tanner deceased, and to appoint a trustee to carry the same into effect.

Be it enacted by the Governor and Legislative Council of the Territory of Florida, That so much of the first section of the above recited act approved eighteenth of December in the year one thousand eight hundred and twenty seven, which provides, that no sale of any of said lots shall be made, unless the time and place of selling the same, shall have been published in some newspaper of this Territory, at least thirty days previous to the sale; and the same sold at public outcry to the highest bidder, be and the same is hereby repealed.

SEC. 2. Be it further enacted, That Elizabeth Tanner be, and she is hereby vested with the full power to sell and dispose of the lots laid out in conformity with the said act, approved as aforesaid, either at private sale or public outcry, on such terms and at such times, as to her may seem expedient.

Passed Feb. 25th 1833.

Approved Jan. 31, 1833.

may sell without advertising

who may sell

CHAP 722 [No 65] AN ACT for the relief of the heirs of John Collins deceased.

Be it enacted by the Governor and Legislative Council of the Territory of Florida, That Jonathan Robinson and Sarah N. Stone, executor and executrix, of the last will and testament of John Collins deceased, be, and they are hereby authorised and empowered, to sell and dispose of the whole or any part of a certain quarter section of land, situate in the county of Gadsden, the title to which has been obtained by the said executors, in the name of the said heirs, since the death of the said John Collins, by virtue of a pre-emption for the said quarter section of land; which said pre-emption accrued to the said John Collins in his life time.

SEC. 2. Be it further enacted, That no sale of said quarter section of land, or of any part thereof, shall take place, until the said executors shall have given at least thirty days notice of the time and place of sale, in some newspaper printed at Tallahassee, and also by posting a copy of said notice upon the door of the court house of said county, for the said space of thirty days.

SEC. 3. Be it further enacted, That before any such sale as bonds to be given is herein authorised, shall take place, the said executors shall give bond and security to be approved by the judge of the county court, of said county, conditioned, for the faithful application

real estate may be sold.

public notice of sale.

of the money arising from the sale of said land, to the payment of the debts of said estate, of the said John Collins deceased, and that if there be any surplus, the same shall be applied by said executors according to law.

*Passed Feb. 4, 1833.*

*Approved Feb. 6, 1833.*

CHAP. 723. [No. 66.] AN ACT authorizing the conveyance of a tract of land belonging to the estate of Joseph M. Sanchez deceased to the legal representatives and heirs of Jeremiah Ives deceased.

preamble.

deed to be ex  
ecuted.

Whereas it hath been shown to the legislative council, that a tract of land belonging to the estate of Joseph M. Sanchez deceased, containing two hundred and ten acres more or less, situated in the County of Musquito, near New Smyrna, bounded on the north by Gabardy's Canal, on the east by Hillsborough river, on the south and west by vacant lands, was by the said Joseph M. Sanchez in his life time, contracted to be sold, and conveyed to Jeremiah Ives of said county of Musquito, deceased, in fee simple; and whereas it is also shown that the said Jeremiah Ives, in his life time paid a part of the purchase money of said tract of land, but that the contract to convey the same is now lost, so that it cannot be carried into execution without the interposition of the legislative council, though the same is desirable and would be advantageous to the legal representatives and heirs of the said Joseph M. Sanchez, therefore; Be it enacted by the Governor and Legislative Council of Florida, That it shall and may be lawful for Joseph M. Hernandez one of the executors of the last will and testament of the said Joseph M. Sanchez, to make execute and deliver to the legal representatives and heirs of the said Jeremiah Ives, a deed in fee simple of said tract of land which said deed in law and equity, shall be taken and deemed as valid and efficient as if it had been made, executed and delivered by the said Joseph M. Sanchez in his life time; Provided however, that the legal representatives and heirs of the said Jeremiah Ives, shall first pay or satisfy to the said Joseph M. Hernandez as executor as aforesaid, such part of the purchase money of said tract of land as may remain yet unpaid, and provided also, that the legal representatives and heirs of the said Jeremiah Ives, do by themselves, or by their lawful guardians, consent to receive such deed, for and in consideration of the premises in this act set forth, without which this act shall be of no force.

*Passed Feb. 13th 1833.*

*Approved, Feb. 15, 1833.*

## CHAP. 724 [No 67] AN ACT\* for the relief of the children of Joseph W. and Julia Field.

Be it enacted by the Governor and Legislative Council of the Territory of Florida, That Joseph W. Field be, and he is hereby authorised to sell and alien, in fee simple, a certain tract of land, lately devised by William Harris deceased, to the said Julia Field, for her life, with remainder to the heirs of the body of said Julia, which land is known and designated in the will of said Harris, as the north half of section thirteen, and the north east eighth of section fourteen, containing four hundred acres, situated in township one, range one, south and east, of Tallahassee: Provided however, that before any sale be made, under the authority of this act, the said Field shall give bond and security, to be approved by the judge of the county court of Leon county, in the penal sum of four thousand dollars, payable to the Governor of the Territory of Florida, and his successors in office, conditioned, that said Field may at any time settle on a trustee, for the use of the said Julia and her heirs, a tract of land in Alabama, Mississippi, or Georgia, of at least four hundred acres of prime or first rate land, and upon the production of a certified copy of such deed of settlement, from the clerk of the court where it is recorded, and his further certificate, that the land in said deed described, is prime or first rate, then the said bond shall be delivered up to be cancelled.

*Passed Feb. 8, 1833.*

*Rejected Feb. 15, 1833.*

Reconsidered and passed by the requisite majority February 17, 1833.

authority to sell  
real estate.

bond to be given.

## CHAP 765 No 68. AN ACT for the relief of the legal representatives of James G. Ringgold deceased.

Be it enacted by the Governor and Legislative council of the Territory of Florida, That it shall and may be lawful for Caroline J. Ringgold, widow and administratrix of James G. Ringgold deceased, or her lawfully appointed agent, or attorney, to sell and dispose of the real estate, of which her husband, the late James G. Ringgold died, seized and possessed in the Territory of Florida, for the benefit of the heirs and creditors of the said decedant, and to make and execute all conveyances necessary, in carrying into effect, the sale hereby authorised, which said conveyances shall be as valid and effectual in law as if executed by the said deceased in his life time.

SEC. 2. Be it further enacted, That before availing herself of the privileges conferred by the first section of this act, the said Caroline J. Ringgold shall file in the office of the clerk of

the county court, of Leon county, a bond in the amount of five thousand dollars, payable to the Governor of this Territory, or his successors in office, with security to be approved by the judge of the said court, conditioned to make the said sale in such manner as may best promote the interest of the heirs of the said decedant, and faithfully to appropriate the proceeds in the manner prescribed by law, and pointed out by the first section of this act.

*Passed Feb. 13, 1833.*

*Rejected Feb. 15, 1833.*

Reconsidered and passed by the requisite majority Feb. 17, 1833.

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CHAP. 726. [No 69.] AN ACT for the relief of Rachel M. Town, widow of Richard Town deceased and her infant children.

Whereas it has been shown to this council, that a certain tract of land containing twelve hundred acres, more or less situated on the western side of the Mantanzas river and on both sides of Moses creek in the county of St. Johns, was conveyed to Richard Town of said county in eighteen hundred and twenty-nine by Achile Murat, said Richard Town, being the husband of the said Rachel M. Town, and the farther of her infant children, but being since deceased, and whereas, it is also shown to this council, that by conveyances of said tract of land made and directed by said Richard Town in his life time with the intention of settling the same upon his family in trust, the same has been so placed and entangled, that no advantage or support can be derived from it to said family, and whereas also, since the decease of the said Richard a sale of said tract of land has become necessary for the sustenance and education of the infant children of the said Rachel M. Town, now therefore.

Be it enacted by the Governor and Legislative Council of Florida, That it may and shall be lawful for the said Rachel M. Town to sell and dispose of the said tract of land upon filing in the office of the clerk of the county of St. Johns her bond payable to the Territory of Florida in the penal sum of two thousand dollars with surety approved by said clerk conditioned that such sale and disposition of said tract shall be made in manner which shall best comport with the interest of her said infant children, being also the infant children of the said Richard Town, and that the avails of such sale shall be appropriated exclusively for their sustenance and suitable education and that any surplus which may remain of such avails shall by the said Rachel M. Town when the said children become of lawful age be by her faithfully paid over to them and each and all of them share and share alike.

SEC. 2. Be it further enacted, That any conveyance of said tract of land made in conformity with the provisions of this act, shall both in law and equity be taken and deemed to be valid and effectual to all intent and purposes.

Passed Feb. 13th 1833.

Rejected Feb. 15th 1833.

Reconsidered and passed by the requisite majority Feb. 17th 1833.

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CHAP 727 [No. 70] AN ACT for the relief of Maria Hernandez De la Carera executrix of Milan De la Carera.

WHEREAS, The late Milan De la Carera of Pensacola, died in Havana, in the Island of Cuba, leaving various debts both in West Florida, and in said Island, to discharge which, his widow and executrix, Maria de la Carera, by her attorney Joseph Noriega, contracted to sell some real estate in Pensacola; of which it is understood, she was by the laws of Spain, entitled to one half in her own right, the remainder belonging to her minor children, of whom she is curatrix, and in as much as it was competent for a Spanish tribunal to grant permission to sell and convey, upon good cause being shewn, and she is desirous of making sale of the real estate of the said Milan now decedent, to her and her children, to pay the debts of the estate, and to educate her children, wherefore, for relief of the said Maria Hernandez De la Carera,

Be it enacted by the Governor and Legislative Council of the Territory of Florida, That the said Maria Hernandez de la Carera, widow and executrix of Milan de la Carera, and curatrix of his infant children be, and she is hereby authorised to sell, and convey all the lands and lots of the said Milan, in West Florida, and to execute and deliver deed and conveyances for the same, which shall be valid and effectual in law to all intents and purposes: Provided however, That before any such sale shall take place, said Maria Hernandez de la Carera shall give bond and security to be approved by the Judge of the county court of Escambia county, in the penal sum of five thousand dollars, conditioned, that so much of the money arising from the sale of such lands, and lots, as may properly belong to the heirs of the said Milan, shall be paid over to said heirs at the age of twenty-one years respectively.

Passed Feb. 15, 1833.

REJECTED FEB. 16 1833.

Reconsidered and passed by the requisite majority Feb. 17th 1833.

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**CHAP. 729, (No. 71) AN ACT to authorise Jane Murray to sell the real estate of George Murray deceased.**

WHEREAS, it hath been shewn to this Legislative Council, That it is necessary to the support, sustenance, and education of the minor and infant children, of Jane Murray, widow of George Murray deceased, that she should be allowed to sell and dispose of the real estate left by the said George Murray, the deceased father of said minor and infant children, and whereas it hath been shewn to this Council, that said estate is but of small value, and that the expense of obtaining a decree for its sale in a court of equity, if such decree can be obtained, would bear so great a proportion to its whole value, as to be equally prejudicial to said Jane and her minor and infant children, therefore,

Be it enacted by the Governor and Legislative Council of the Territory of Florida, That Jane Murray be, and she is hereby authorised to sell the real estate of George Murray deceased, and to make good and lawful titles thereto.

SEC. 2. And be it further enacted, That before the said Jane Murray shall be authorised to make such sale, she shall give bond with good security, to be approved by the county court of Duval county, in such sum as said court shall require, conditioned, to pay the proceeds of said estate to the heirs of said Geo. Murray deceased, as they may be entitled to the same.

*Passed Feb. 14th 1833.*

**REJECTED FEB. 16, 1833:**

**Reconsidered and passed by the requisite majority Feb. 17. 1833.**

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**CHAP. 730 (No. 72) AN ACT authorising the sale of the real estate of Davis Floyd deceased**

WHEREAS, it hath been shewn to the Legislative Council of the Territory of Florida, That the personal estate, of Davis Floyd, late of Leon county, deceased, is insufficient to pay his legal debts, and whereas Benjamin Chaires : Presiding Justice of the county court of Leon county, by whose decree alone under the existing statutes of this Territory, any sale of the real estate of said decedent, can be made is one of the executors of the last will and testament of the said Davis Floyd, and whereas the said Benjamin Chaires, executor, and Betsey Floyd widow and executrix of the said decedent, have presented a petition to this council, praying to sell the said real estate under a special enactment of the same, for the purpose of paying the debts of their testator, therefore,

Be it enacted by the Governor and Legislative Council of the

Territory of Florida, That it shall and may be lawful for the said executor and executrix, to sell and dispose of the real estate of which the said testator died possessed, upon filing in the office of the clerk of the county court of said county, bond in the amount of five thousand dollars, payable to the Governor of the Territory, or to his successors in office, with security to be approved by the clerk of said court, conditioned, to make the sale in such manner as may best comport with the interests of the legal representatives of the said Testator, and to appropriate the proceeds in the manner prescribed by law, to the purposes pointed out in the preamble of this act.

SEC. 2. Be it further enacted, That all conveyances executed in conformity with and for the purpose of carrying into effect the provisions of this act, shall be valid and effectual as if executed by the said Davis Floyd, during his life time.

PASSED FEB. 13, 1833.

Approved Feb. 16, 1833.

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CHAP. 731 No. 73. AN ACT for the relief of William Hilliard and others.

WHEREAS it appears that the act of the Legislative Council of the Territory of Florida, passed 22d November 1829, providing for the compensation of its officers, etc. had an unequal operation upon the interests of some of the enrolling and engrossing clerks, by reason of the disproportion of the reduction of their accounts against the United States, inasmuch as some of the enrolling and engrossing clerks had performed a greater portion of the engrossing business of the Legislative Council, for remedy whereof,

Be it enacted by the Governor and Legislative Council of the Territory of Florida, That the sum of one hundred and twenty dollars, be allowed and paid to William Hilliard, as additional compensation for services rendered the Legislative Council of the Territory of Florida, in the year eighteen hundred and twenty-nine, and that the sum of ninety-four dollars be allowed and paid to Andrew G. Mays, for the like services: and the sum of seventy dollars be also allowed and paid to James Scott for the like services.

SEC. 2. Be it further enacted, That the Governor be and he is hereby required to certify the same to the General Government: Provided nevertheless, that the aforesaid sums of money shall not be allowed, and paid out of the money at present appropriated by Congress for the support of the Government of the Territory of Florida; unless there should be an unexpended balance after defraying the expenses incurred by the present legislative council. PASSED JAN. 30, 1833.—APP. FEB. 6, 1833.

## CHAP. 728. [No.74.] AN ACT for the Benefit of the Legal Representatives of John Y. Garey deceased.

Whereas it has been shewn to this present legislative council that Maria Fermina Garey, widow and administratrix of John Y. Garey deceased, is desirous of removing to the City of St. Augustine, where her friends and relations reside, and cannot with propriety do so without first selling the real estate of which her said husband died seized, and possessed, and she having in her own name and as the natural guardian of the two infant children of her said deceased husband, petitioned the legislative council, for authority to sell and convey the real estate of said deceased, and to invest the funds arising from said sale in the purchase of real estate, in or near the City of St. Augustine, to end for the use, benefit and proprietor-ship of the said infant heirs of the said John Y. Garey deceased; wherefore.

Be it enacted by the Governor and Legislative Council of the Territory of Florida, That it shall and may be lawful, for the said Maria Fermina Garey to sell at public out cry or at private sale, as to her may appear the most conducive to the interests of said estate, all the houses and lots or out lots and lands belonging to the estate of John Y. Garey deceased, lying, situate, and being in the City of Tallahassee, or County of Leon, and the same being sold, a conveyance or conveyances to make to the purchaser or purchasers in as ample and valid a manner, as the said John Y. Garey could have done in his life time.

SEC. 2. Be it further enacted, That before any such sale or sales shall take place, it shall be the duty of the said Maria F. Garey, to enter into bond with good and sufficient security to be approved by the county court of St. Johns County, in the penal sum of four thousand dollars, and payable to the governor for the time being, and his successors in office, conditioned to sell the said estate, and every parcel thereof for the best price that can be obtained, and to invest the whole amount of the proceeds thereof in the purchase of real estate in, or near the City of St. Augustine, in the name of the said infant heirs of John Y. Garey deceased, and to their use; and benefit, reserving to herself, such dower interests therein, as is by the laws of this territory now invested in her, in the lands houses and lots, in this act authorized to be sold, and no more, which said bond shall be recorded in the clerks office of St. Johns county, and Leon county before she shall have the authority by the first section of this act vested in her.

SEC. 3. Be it further enacted, That in case she shall fail or refuse for the space of two years after, the sale of the real estate herein contemplated to perfect the conditions in her aforesaid bond contained, it shall be lawful and is hereby declared to be the duty of the county court of the county of St. Johns, or other court in said county, having jurisdiction of the matter to appoint some fit and proper person, guardian to the said in-

fant children, taking good security for his faithful management of such, whose duty it shall be to prosecute the said bond to judgement, and to appropriate the proceeds of said judgement in real estate as by said bond is contemplated.

SEC. 4. Be it further enacted, That whenever it shall be made satisfactorily to appear to the county court of St. Johns county, that said Maria Fermina Garey has truly and in good faith, complied with all the conditions contained in her said bond, in the second section of this act, required to be given. It shall and may be lawful for said court to pass an order releasing her and her securities from the penalty therein contained.

*Passed Feb. 14th 1833.*

*Rejected Feb. 16 1833.*

Reconsidered and passed by the requisite majority Feb. 17 1833.

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CHAP. 732 No 75 AN ACT for the relief of Allen W. Coleman.

WHEREAS it appears that Allen W. Coleman rendered certain professional services, to the prisoners confined in the jail of Leon county, during the year of eighteen hundred and thirty-one, and whereas it further appears, that the account of the said Coleman, examined and approved by the Judge of the superior court of the Middle District of Florida, has been lost or mislaid; now for the relief of the said Allen W. Coleman,

Be it enacted by the Governor and Legislative Council of the Territory of Florida, That the treasurer of the Territory, pay and allow to the said Allen W. Coleman, the sum of sixty-five dollars out of any money in the treasury not otherwise appropriated.

*Passed Jan. 29, 1833.*

*Approved Feb. 6, 1833.*

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CHAP. 733 No 76 AN ACT for the relief of Shannon and Ballagh.

Be it enacted by the Governor and Legislative Council of the Territory of Florida, That the Governor of the Territory, be requested to pay Messrs. Shannon and Ballagh, of the town of Apalachicola, the sum of ninety-five dollars and fifty cents, the amount paid by them to the tax collector of Franklin county over and above the amount actually due by them for taxes.

*PASSED FEB. 8, 1833.*

*APPROVED FEB. 9, 1833.*

## CHAP. 734. No. 77 AN ACT for the relief of Jane Aikin.

WHEREAS it appears that Edward Aikin, the husband of the said Jane, in his life time, rendered certain professional services to the prisoners confined in the jail of Leon county, during the year 1831, and whereas it appears, that the account of the said Edward Aikin, is examined and approved by the Judge of the Superior Court of the Middle District of Florida,

Be it therefore enacted by the Governor and Legislative Council of the Territory of Florida, That the treasurer of the Territory, pay and allow the said Jane Aikin, the sum of nine dollars and fifty cents, out of any money in the treasury, not otherwise appropriated.

Passed Feb. 5, 1833.

Approved Feb. 9, 1833.

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## CHAP. 734 No. 78 AN ACT for the relief of Francis J. Avice.

Be it enacted by the Governor and Legislative Council of the Territory of Florida, That the commissioners appointed by the act of the Legislative Council, approved February the twelfth, one thousand eight hundred and thirty-two, or the proper accounting officer or officers of the treasury of this Territory, for the time being, be authorised, and they are by this act authorised and directed, to audit and adjust the accounts of Francis J. Avice, sheriff and collector of the county of St. Johns, with this Territory, according to the principles of equity and justice; to allow unto him, and pass to his credit, his several vouchers, and evidences of payments, claims, and credits, where the said commissioners or accounting officers are satisfied that the same are correct and just, to allow unto him, and pass to his credit, the compensation, not exceeding eight per centum, on the assessment of taxes for the county of St. Johns, as ordered by the county court thereof; and to allow unto him and pass to his credit all taxes remitted from said assessment, by order of said court, and also all just claims and demands which he may hold and have against this Territory, though the same were not presented to the said commissioners or either of them, until after the first day of May one thousand eight hundred and thirty-two.

SEC. 2. Be it further enacted, That if upon auditing and adjusting the accounts of the said Francis J. Avice, as in this act is authorised and directed, any balance shall be paid unto him, the treasurer of this Territory shall pay the same from any monies in the treasury, not otherwise appropriated.

PASSED FEB. 9, 1833.—APPROVED FEB. 13, 1833.

## CHAP. 736 No 79 AN ACT for the relief of Allen Faircloth.

Be it enacted by the Governor and Legislative Council of the Territory of Florida, That Allen Faircloth, and his securities be, and they are hereby discharged from any further liability upon a bond executed to the Territory, for rent of certain public buildings at St. Marks, in the year 1827, it appearing to the satisfaction of this council that the said Faircloth has already made payment as far as he is in equity and justice bound to do.

PASSED FEB. 14, 1833.

APPROVED FEB. 16, 1833.

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## CHAP. 737 No 80 AN ACT for the relief of Joseph Wachob.

Be it enacted by the Governor and Legislative Council of the Territory of Florida, That the commissioners appointed by the act of the Legislative council approved Feb. 12, 1832, or the proper accounting officer or officers of the Treasury of this Territory, for the time being, be authorised, and they are hereby authorised to audit and adjust the accounts of Joseph W. Wachob for certain services rendered to this Territory in the arresting and apprehension of certain criminals charged with a violation of the criminal laws of this Territory, prior to November 1830, according to the principles of equity and justice, and to allow to him all just claims and demands against the said Territory, for the rendition of such services, though the same were not presented to the said commissioners, or either of them until after the first day of May 1832.

SEC. 2. Be it further enacted, That upon the auditing and adjusting the said accounts, and claims of the said Joseph W. Wachob, it shall appear to the proper accounting officers, that said accounts and claims are just and correct, that they be authorised and are hereby directed to pay over to the said Joseph W. Wachob the compensation allowed by the then existing laws for such services out of any money in the treasury not otherwise appropriated.

PASSED FEB. 15, 1833.

APPROVED FEB. 16, 1833.

## CHAP 728 No. 81. AN ACT for the relief of Benjamin G. Thornton and Jesse H. Willis.

WHEREAS, It hath been shewn to this council, That there are unsettled, and outstanding claims and demands against this Territory, on the part of Benjamin G. Thornton on account of expenditures made, labour performed, and materials furnished by him, upon and pursuant to a contract entered into by him in May 1828, with the commissioner of Tallahassee for the erection of the walls of the capital in said Tallahassee, and for the supply of materials thereof, and whereas the said Benjamin G. Thornton claims damages for the nonperformance of the terms of the said contract on the part of the said commissioner, and on the part of this Territory, to a large amount; and whereas said claims, demands and damages, if any thing be actually due upon them, are unpaid, and liquidated, to the great injury and pecuniary distress of the said Benjamin G. Thornton; and whereas also no suit can be sustained by the said Benjamin G. Thornton, in the ordinary courts of law, or of equity against the Territory, whereby the rights of the said Benjamin G. Thornton, in the premises, can be ascertained, decided and enforced, therefore,

Be it enacted by the Governor and Legislative council of the Territory of Florida, That the said claims and demands of the said Benjamin G. Thornton, against the said commissioners, and against the Territory, by reason of the said contract, or of any expenditures made, labour performed, or by reason of any damages resulting to him from the nonperformance of the terms of the said contract, by the said commissioner or by this Territory, be left to the decision of arbitrators.

SEC. 2. Be it further enacted, That the arbitrators to whom all the matters in controversy, between the said Benjamin G. Thornton on the one part and the said commissioner of Tallahassee, and this Territory on the other part, arising out of the said contract herein before mentioned, shall be submitted to three persons to be named and appointed by the Governor, and approved by the Legislative council, and the award in the premises, of any two of said arbitrators shall be final, and shall bind the said Benjamin G. Thornton, and the said commissioner, and this Territory: Provided, such award shall be approved by the Governor of this Territory and the next Legislative Council.

SEC. 3. Be it further enacted, That the said arbitrators shall convene as soon after the passage of this act, as may be convenient, and upon five days notice to the respective parties to wit: to the said Benjamin G. Thornton, and to the commissioner of Tallahassee, or in the absence of the commissioner, to the Secretary of this Territory, may and shall proceed to examine into the merits of the said claims and demands of the said Benjamin G. Thornton, to hear testimony in relation thereto, to

administer oaths to such witnesses before them, and to award finally upon the said matter or matters in controversy according to justice and equity, and having made their said award according to the decision and arbitrament of a majority of said three arbitrators, they shall report the same in writing signed and sealed by said three arbitrators or a majority of them to the Governor of the Territory, who shall report to the next Legislative Council.

SEC. 4. Be it further enacted, That if by said award, it shall be ascertained and found that there be any sum due and owing to the said Benjamin G. Thornton on account of said contract and on account of his claims and demands thence arising; then the Governor of this Territory, if he approves of said award and it shall also be approved by the next Legislative council, shall cause the same so awarded to be paid unto the said Benjamin G. Thornton, without delay from the Tallahassee fund, and each and every officer of this Territory, having or holding such fund or any part thereof, on the warrant of the Governor therefor, shall pay the sum so warranted to the said Benjamin G. Thornton.

SEC. 5. Be it further enacted, That Jesse H. Willis shall be entitled to the benefit of this act, so far as to bring before the commissioners herein appointed, the matter in controversy between the commissioner of Tallahassee, and himself, and that all proceedings at law in relation to said matters in controversy, shall be stayed by virtue of this act, until such arbitrators, and then the award of such arbitrators, when approved by the Governor and Legislative council shall be the judgment of the court.

Passed Feb. 17, 1833.

Approved Feb. 17, 1833.

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CHAP. 739 (No 82) AN ACT to provide for the compensation of the officers of the council and for other purposes.

Be it enacted by the Governor and Legislative Council of the Territory of Florida, That the following sums be, and they are hereby appropriated out of the amount allowed by the general government for the expenses of the legislative council, and other expenditures for the year one thousand eight hundred and thirty-three.

For mileage and compensation to the members of the Legislative council, the sum of three thousand one hundred and ninety-eight dollars,

For printing the laws at two dollars and fifty cents per page, and the journals at two dollars per page, as contracted with the council.

For publishing the laws in three newspapers, at one dollar and a quarter per page, each, for one fair manuscript copy of all the laws, as passed to be certified, and sent to the State department; for another fair copy for printers; for payment of persons making marginal notes and index; comparing, revising and correcting proofs of laws, and superintending the printing thereof, at one dollar and fifty cents per page, for folding and stitching the laws and journals, and binding the laws, estimated two hundred and eighty-five dollars, and for transportation of the laws and journals of this year, and of the compilation, estimated at two hundred dollars, for book case for the council, and arranging papers according to instructions of this Session, estimated at sixty dollars, the said several expenditures, to be made under the direction, and the account therefor to be audited and certified by the executive, the aggregate amount thereof being estimated at two thousand five hundred and fifty dollars.

To William Wilson, for miscellaneous, and other extra printing for the Council at this session, to be audited by the Governor, including finance report, estimated in all at three hundred and eighty dollars.

To Joseph B. Lancaster, for stationary and other contingencies for the Council at this session, amounting to two hundred and ninety dollars.

To James Bryan jr. for fuel, and other contingencies for the Council at this session, amounting to sixty-one dollars.

To the following officers for their salaries; To Joseph B. Lancaster, Chief Clerk, five hundred dollars; James Bryan Serjeant at arms, one hundred and fifty dollars; Moses Ellis door keeper, one hundred and fifty dollars; Ann C. Tingle, enrolling and engrossing clerk, two hundred and fifty dollars; William G. Perpall, enrolling and engrossing clerk, two hundred and sixty-two dollars and thirty cents; A. G. Mays, enrolling and engrossing clerk, three hundred and thirty-five dollars and thirteen cents; Isaac R. Harris, enrolling and engrossing clerk, two hundred and sixty-five dollars and eighty-six cents; L. Read, one hundred and eighty-eight dollars and eighty-three cents; Edmund Wallen, enrolling and engrossing clerk, two hundred and eighty-three dollars and ninety-nine cents; John G. Gunn, enrolling and engrossing clerk, three hundred and five dollars and thirty-two cents; Henry J. Holmes, enrolling and engrossing clerk, two hundred and sixty-five dollars, and seven cents; William Carter, clerk of Finance committee, two hundred dollars; To Turbutt R. Betton, for services rendered in the safe keeping of the room and furniture of the Legislative Council, in conformity with a resolution thereof, fifty dollars.

SEC. 2. Be it further enacted, That the appropriations here

shall be paid to the chief clerk, serjeant at arms, and door keeper, and enrolling and engrossing clerks shall be paid out of the appropriation made by Congress, next after the compensation allowed to the members of the council.

SEC. 3. Be it further enacted, That if after payment of the aforesaid expenses, there should be an unexpended balance of the appropriations by Congress, that the Governor certify for payment, out of the same, the following demands, viz: To William Hilliard one hundred and twenty dollars; To Andrew G. Mays, ninety-four dollars; and to James Scott, seventy dollars; according to the provisions of the act, passed at this session, and approved Feb. 6th 1833. And on delivery to him, for the use of the Council, of fifty copies of the proposed publication of the decisions of the Court of Appeals of this Territory, that he certify for payment out of said balance, as contingent expenses of the council, an account in favour of the publisher, for said fifty copies, according to the terms of the prospectus thereof: And provided however, That if there should not be such unexpended balance, that the said several accounts be included in the next estimate of appropriations for this Territory.

PASSED FEB. 17, 1833.

REJECTED FEB. 17, 1833.

Reconsidered and passed by the requisite majority Feb. 17, 1833.

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